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# JUSTICE FOR VICTIMS

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Ontario Government Consultation  
On Victims of Violent Crime

TORONTO, ONTARIO  
MAY 7-8, 1984

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REPORT





The Ontario government's Consultation on Victims of Violent Crime marked a watershed in the development of victims' rights and services in this province. Indeed, it recorded a milestone for victim justice in Canada. I am pleased therefore to present these proceedings as the official record of this important event.

Sponsored by the Justice Secretariat, the two-day gathering provided an unprecedented opportunity for victims of crime and victims' groups to talk directly to government about the experiences and problems they have encountered with the justice system.

Victims and their families, legal, medical and social services professionals all publicly exchanged views. Experts were also heard from other provinces and from the United States. And the Ontario government listened.

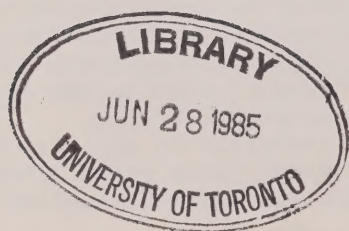
Response to the event was overwhelming and gratifying. Sharing personal experiences and concerns in a public forum is not an easy task for victims of violent crime and I would like to take this opportunity to acknowledge and sincerely thank all who participated so openly.

Recently, and through this Consultation, we have heard the call for a more equitable balance in our justice system, between the rights of victims and offenders. Historically, the offender has been the centre of attention. We must act now to ensure equal status for the victim.

With the insights and ideas expressed in this report, I am confident that we in Ontario can now vigorously pursue the kind of recognition, sensitivity and dedicated services which crime victims and their families need and deserve.

A large, stylized handwritten signature in dark ink that reads "Gord Walker". The signature is fluid and cursive, with the first name "Gord" being particularly prominent.

The Honourable Gord Walker, Q.C.  
Provincial Secretary for Justice



# Foreword

From my perspective as an advocate for victims of crime in Canada, the most significant aspect of this Ontario Government Consultation is the fact that it was held at all. This was an important step forward, and for many participants, it was the first opportunity to "see the other side". In addition, we victims of crime finally had an opportunity to have input into "the System". And we were heard with some degree of respect.


The recommendations which came out of the Consultation should be considered by all provincial governments. Ontario is the only jurisdiction to involve victims directly in its response to the Federal/Provincial Task Force Report. For this, we are grateful. Victims feel strongly that very little will be resolved or achieved in the area of victims' rights, needs and services until we can be fully involved.

With this report of the proceedings of the Consultation, Ontario has again demonstrated leadership in attempting to address crime victims' concerns. For this, too, we are thankful.

Don Sullivan  
Executive Director  
Canadian Crime Victims Advocates\*  
Ajax, Ontario  
June 1984.

\*Canadian Crime Victims Advocates is a national organization which advocates greater recognition of the rights and needs of crime victims, intercedes on behalf of victims and serves as a clearing-house of information concerning victim justice.





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*Photos: Bruce Reed and Tim Campbell, Toronto.*

# Summary of Recommendations

On May 7-8, 1984, the Ontario Provincial Secretariat for Justice sponsored a Consultation on Victims of Violent Crime. This Consultation brought together victims and victims' groups directly with government officials and others interested in victim justice to consider the needs and concerns of victims of crime.

The aims of the Consultation were: (i) to encourage an exchange of views and ideas among crime victims, criminal justice officials and victim justice specialists; (ii) to increase public understanding of victim justice; and (iii) to identify areas for improvements in victim justice. The Consultation provided an opportunity for victims and their families, specialists in victim justice, legal and medical professionals, community health organizations, church groups, police and government officials to discuss future action required to improve victim justice in Ontario.

Conference sessions focused on first-hand accounts from victims of homicide, aggravated assault and robbery, and provided an overview of victim legislation and victim services from the United States, Europe and other jurisdictions in Canada. In addition, special Working Groups looked at specific issues in the areas of police and crisis services, compensation and financial support, victim participation in criminal justice, and violence prevention. The Consultation also provided an opportunity for participants to present to the Ontario Cabinet Committee on Justice the results of their deliberations after the two-day meeting.

Recommendations put forward by the Working Groups suggested that there should be:

- substantially increased provincial funding for victim/witness services, and for related research (Recommendations 1, 8 and 19);
- increased upper limits of individual awards under the Criminal Injuries Compensation Board (C.I.C.B.) (Recommendation 2);
- improved publicity about, and easier access to, the compensation provisions of the C.I.C.B. (Recommendation 3);
- a re-examination of the C.I.C.B.'s interpretation of Section 17(1) of the Compensation for Victims of Crime Act (1971), especially in consideration of victim culpability (Recommendation 4);

- top-down commitment to victims' concerns within the police community (Recommendation 5);
- standardized police guidelines and procedures concerning notification of death or serious injury, developed with input from victims' groups (Recommendation 6);
- sensitization of hospital staff to the emotional trauma of crime victims (Recommendation 7);
- greater sensitivity on the part of the news media to the needs of victims at the time of crisis (Recommendation 9);
- at least equal status for victims as for the accused in the Justice System (Recommendation 10);
- greater recognition within the Criminal Justice System of victims' rights, feelings and special status, through the establishment of a provincially funded victim advocacy mechanism (Recommendations 11 and 15);
- improved communications within the Criminal Justice System to ensure that victims have timely and accurate information (Recommendations 12, 14, and 22);
- assistance for victims in coping with the trauma of crime and with emotional and financial loss (Recommendation 13);
- state-guaranteed restitution (Recommendation 16);
- victim impact statements, allowed by law, retained and updated by the police, and presented orally or in writing (Recommendations 17 and 24);
- an end to the practice of the defense serving subpoenas on close relatives of murder victims (Recommendation 18);
- consideration given to victims' concerns about having personal and confidential information reported in the media (Recommendation 20);
- immediate public awareness, through the media, of violent offenders unlawfully at large (Recommendation 21);
- victim representation on the Minister of Correctional Services' Advisory Council on the Offender (Recommendation 23);
- a review, with victim participation, of provincial and national parole boards, prosecution and judicial sentencing (Recommendations 25 and 26);
- an expansion of victim-witness assistance projects to cover all parts of Ontario (Recommendation 27);
- greater public education about victims' rights and services, using private sector agencies familiar with the Criminal Justice System (Recommendation 28);



- greater public awareness about the success and/or failure of all current institutional and community corrections programs (Recommendation 29);
- parole procedures for young offenders and improved means to identify the propensity for violence among young people (Recommendation 30);
- an educational component within each element of the Justice System (Police, Crowns, etc.) for Community outreach (Recommendation 31);
- improved legislation and/or other mechanisms to deal with the problem of dangerous offenders (Recommendation 32);
- community centres established to deal with immediate and on-going problems of crime victims and their families (Recommendation 33);
- community violence prevention centres established and more community resources assigned to deal with the causes of violence in families and in the media (Recommendation 34);
- cooperation and joint funding of the above-noted community centres by all levels of government (Recommendation 35);
- mandatory core curricula for primary and secondary schools, developed by the Ministry of Education, to help students cope with negative emotions and respect the rights of others (Recommendation 36);
- more emphasis given by the Ministry of Colleges and Universities to training of teachers and other professionals on handling interpersonal problems (Recommendation 37);
- workshops in central and northern Ontario to address the victim-related concerns of those communities before policy decisions are finalized (Recommendation 38); and
- feedback to all delegates on the “results” of the recommendations presented at the Consultation (Recommendation 39).

The Consultation also heard individual proposals with respect to: the establishment of a Crime Victims Board to advocate and implement changes in the area of victim justice; correctional programs designed to sensitize offenders to victims’ pain and suffering; flat sentences for those convicted of violent crimes; abolition of “automatic early release”; a national referendum on capital punishment for convicted first degree murderers; the reallocation of correctional services funding to provide more resources for the supervision of released offenders; the recognition of pain, suffering and mental anguish of crime victims and their families as compensable factors in criminal injuries compensation; more use of the CPIC Police Network in cases of missing children; and greater community involvement in parole decisions.



The Ontario Government's Cabinet Committee on Justice, chaired by the Honourable Gord Walker, Provincial Secretary for Justice, received recommendations from each Consultation workshop.

# Background

In Ontario, as elsewhere, the needs and rights of victims of crime are taking on a clearer focus. This growing concern for victims reflects a realization on the part of many that victims have for too long been neglected by our criminal justice process. Victim rights groups at the grass-roots level have helped to heighten public awareness. But there is also greater recognition within the justice system itself that "the state" must be sensitive to the emotional, physical and financial impact of victimization through crime, and must do more to encourage willing cooperation from crime victims and witnesses in the pursuit of justice.

The Honourable Gord Walker, Ontario's Provincial Secretary for Justice, played a key role in having the concept of victim justice identified as a priority at various federal and provincial forums in 1979 and 1980. The result of these discussions was the establishment, in September 1981, of a Canadian Federal/Provincial Task Force on Justice for Victims of Crime. The mandate of the Task Force was "... to examine the current needs of victims, their experiences with the criminal justice system, the funding implications of different courses of action, and ways and means of developing, sharing, and disseminating information on those issues both with the public and with criminal justice agencies".

The Province of Ontario was instrumental in the establishment of the Task Force which was chaired by Ontario's then Deputy Provincial Secretary for Justice, Mr. Don Sinclair. In addition, staff of the Justice Secretariat took a lead role in the development of the report by acting as a Secretariat to the Committee, coordinating the writing of background papers, keeping minutes, liaising with federal departments and provincial members, collecting relevant material, and writing and editing the final report.

The Task Force solicited ideas from across Canada, the United States, and some European jurisdictions, and produced its final report in June 1983. At that time, the Provincial Secretary reiterated Ontario's commitment to victim justice, and urged his federal and provincial colleagues to make the adoption of the Task Force Report recommendations a top priority for their governments.

The Task Force Report makes 79 recommendations including recommendations to improve victim rights and victim services in the following areas: prompt return of property; restitution; criminal injuries compensation; victim impact statement; protection from intimidation; in-camera hearings; trial within a reasonable time; general services for all victims;

and special services for the following categories of victims who are particularly at risk: (a) the elderly (b) children (c) assaulted wives (d) sexual assault victims (e) Native victims, and (f) families of homicide victims.

In its concluding discussion on the factors responsible for the neglect of victims' concerns, the Task Force noted that "... Surprisingly, although some 'systemic' difficulties could be identified, the difficulties with those practices resulted more often from attitudes, customs and habits, than from the contingencies of the justice system itself". The Task Force went on to point out that "... in many instances, simple changes in existing practices within the justice system itself would be sufficient to produce the desired results. For instance, it is significant that the most frequently expressed need by the great majority of victims interviewed is the need for information".

All recommendations have now been reviewed in detail by an Inter-ministry Committee, chaired by the Justice Secretariat. Most of the recommendations have been considered by the Cabinet Committee on Justice. With the exception of a few recommendations which require further study or are thought to be inappropriate Ontario has accepted the Task Force recommendations. Indeed, Ontario has already implemented or is in the planning stage of implementation with respect to many of the recommendations.

For example, in regard to victims who may be especially at risk such as sexual assault victims or assaulted wives, Ontario has already taken almost all of the steps proposed in the various recommendations. Similarly, the Ministries of the Solicitor General and Attorney General have already put in place a number of police-based and court-based victim assistance and witness assistance programs on a pilot project basis. Funding is currently being sought to place witness assistance workers in the offices of the Crown Attorney in all 52 counties and districts of Ontario. Subject to the outcome of the current evaluation phase of the pilot projects and the availability of funds, the police-based victim assistance program will also be expanded.

The Provincial Secretary for Justice has taken the lead in exploring possible mechanisms for funding victim services and has publicly advocated the imposition of a penalty of perhaps \$10.00 on each convicted offender, in addition to the normal sentence, with respect to the approximately 2 million federal and provincial offences which occur in Ontario annually. This proposal could yield approximately \$20,000,000 which could be used both to increase funding for the Criminal Injuries Compensation Board and to improve services for victims generally.

Victim justice is a very broad issue which overlaps federal, provincial and municipal levels of government as well as a wide variety of community agencies and groups. Federally, the Justice Department, Health and Welfare Canada and the Ministry of the Solicitor General have provided funding, basic research and information in support of victim justice

initiatives. An additional \$4.8 million has been approved by the Federal Government over the next two years for projects to assist victims and witnesses. The National Clearinghouse on Family Violence will be stepping up its services over a three-year period to meet a growing demand for information and expertise in the areas of wife assault, child abuse and abuse of the elderly. The Ministry of the Solicitor General has implemented a Victims Resource Centre to provide public information on victims and victimization and to promote professional understanding of victims' needs.

Provincially in Ontario, the Ministry of the Attorney General has established a Countermeasures Unit to coordinate information, provincial programs and community actions designed to reduce the problem of drinking and driving. Acting on one of the principal recommendations of the Report on Wife Battering produced by the Ontario Standing Committee on Social Development, the Provincial Government has appointed a Coordinator, Family Violence Initiatives, in the new Women's Directorate. The Ministry of Community and Social Services, acting on a recommendation of the Child Abuse Report of the Standing Committee on Social Development, has appointed a Director of the new Child Abuse Centre to coordinate initiatives in this area. In addition, the Ministry of Correctional Services has taken a lead role in developing specialized programs aimed at restitution for victims of crime. The Ministry of the Solicitor General, through the Ontario Provincial Police and the Ontario Police Commission, has emphasized the training of police officers to improve their sensitivity to the special needs of victims at the time of crisis.

In the non-government sector, a great deal of effort has been expended by a wide range of volunteer agencies, church organizations, rape crisis centres, transition houses and shelters in providing emergency services for victims and their families and essential counselling services.<sup>1</sup>

Acknowledging both the responsibilities and the contribution of these many and varied groups, the Provincial Secretariat for Justice has focused much of its own effort on policy development and coordination, and particularly on the exchange and transmission of information, regarding victims' needs and services to meet these needs. In the recent past, the Secretariat has initiated several conferences in support of victim justice, including a major consultation on rape in 1981 and a major consultation on wife battering in January, 1984. A joint conference with the National Organization for Victim Assistance, which included Canadian and U.S. organizations interested in victims' rights and services, was co-sponsored in October, 1981 with the Federal Solicitor General's Department, the

1. For a partial listing of victim justice organizations in Ontario, please refer to Appendix H.



Canadian Council on Social Development and the Canadian Association for the Prevention of Crime.

The two-day Ontario Consultation on Victims of Violent Crime outlined in these proceedings is one example of provincial initiative designed to enhance the exchange of information and to give expression to victims' concerns. The Consultation served as a direct, proactive measure in response to the Report of the Federal-Provincial Task Force and to the contribution of many organizations and individuals striving for recognition of victims' concerns and improved victim services.

The Consultation established three primary objectives:

- (i) to encourage an exchange of views and ideas among crime victims, criminal justice officials and victim justice specialists;
- (ii) to increase public understanding of victim justice; and
- (iii) to identify areas for improvements in victim justice.

Specific proposals for improving the criminal justice process or for addressing victim needs in Ontario were developed and became the "product" of the Consultation.

The unique format developed for the Consultation provided opportunity for dialogue, and for sharing of ideas, experiences and perceptions on the part of those most closely associated with justice issues. Victims and their families, government officials from the justice field and a variety of professional people interested in victims' concerns were able to review a range of critical issues relating to needs and services, and to discuss proposals for future action to improve victim justice in Ontario. The detailed agenda followed during the two days is set out in Appendix A.

Approximately 200 people attended the Consultation. Delegates were from all regions of Ontario and from Quebec, Alberta, California, New York, Michigan and Washington DC, and are listed in Appendix B. Plenary sessions were structured to provide information about existing and planned legislation and services for victims from other jurisdictions in Europe, the United States and Canada. Delegates were also challenged by special presentations from victims of violent crime who gave firsthand accounts of the crime and of their experiences in dealing with the criminal justice system since the crime.

A key feature of the Consultation was the opportunity for delegates to participate in Special Working Groups, or workshops which examined issues relating to police and crisis services, compensation and financial support, victim participation in the criminal justice process, and violence prevention. The Working Groups met on three separate occasions and combined formal presentations by specialists in particular areas with informal discussion and information exchange. Each workshop had the benefit of a chairperson, or moderator, a rapporteur for purposes of reporting back to the conference as a whole, as well as the special resource "experts" who provided input on major issues. Participation in the Work-

ing Groups was focused on the objective of presenting specific recommendations for change in each area to the Ontario Cabinet Committee on Justice during the concluding session on May 8, 1984.

The proceedings are structured on the basis of the taped transcripts of the nine major plenary sessions and brief reports prepared on the discussion of issues and the development of recommendations by each of the four Working Groups. Editing of transcripts has been kept to a minimum in an effort to retain the style and flavour of the presentations. In this report, each major plenary session is presented as a chapter, and a separate chapter is devoted to the reports and recommendations from the Concurrent Working Groups. A synopsis at the beginning of each chapter touches on the highlights of the session as a reference aide.

Feedback from the delegates, resource people and speakers, and from the press and media people who reported on the event, was generally very positive and supportive of the initiative. It is expected that the Consultation will stimulate further opportunity for dialogue within the victim justice movement and with legislators, legal practitioners, law enforcement and community service specialists throughout Ontario and in other parts of Canada. This document is intended to serve as an information source on the Consultation and a ready reference for further study and action.



Stephanie Wychowanec, Deputy Provincial Secretary for Justice, provided opening remarks and chaired the introductory session.

# CHAPTER 1

## Welcome and Opening Remarks

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SPEAKER (MAY 7, 1984 – 9:30 A.M.)

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• STEPHANIE WYCHOWANEC, Q.C.

DEPUTY PROVINCIAL SECRETARY FOR JUSTICE, ONTARIO

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*Overview of the evolution of the victim's role in criminal procedure. . . . the Canadian criminal process as a public process . . . the need to seek a balance in victims' rights and those of accused persons. . . . the emerging focus on victims' needs and rights in Ontario. . . . introduction to the purpose of the Consultation, its structure and agenda.*

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STEPHANIE WYCHOWANEC

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Good morning ladies and gentlemen:

It is with great pleasure that I welcome you to this Consultation on Victims of Violent Crime.

When we in the Provincial Secretariat for Justice first began thinking about holding this conference, I did a little research on the role of the victim in a criminal procedure. I found the evolution of the victim's role in western society very interesting, and while I won't go into any great detail, let me give you a brief thumb-nail sketch of my findings.

In very early tribal society, which was based on kinship ties and tribal organization, victims and their kin were expected to put things right by avenging what they perceived as crimes against the family. During this period there were no effective laws, and for that matter, no centralized state to protect the rights of either the victim or the accused. In that society, tribal or family retribution, contrary to modern concepts of punishment, inflicted upon the perpetrator of the crime, damages similar to

that sustained by the victim. This was an "eye for an eye, and a tooth for a tooth" philosophy.

Feudalism and Christianity gradually eliminated tribal retribution and feuding with payments of fines to the victim, his family, the local Lord or Bishop, and the King. Over time, payments to the victim or his family began to shrink and gradually the fines went to the state or church entirely. During this early feudal period, prosecution had to be instituted by the victim himself or by his family. The state or church, aside from providing a court and judge, played no part.

By the early twelfth century, the feudal system of law disappeared and common law took its place. Under the common law, exclusive jurisdiction to impose public punishment for crime was vested in the state, although private prosecution was still available to the victim as a remedy.

By the eighteenth century, from a utilitarian point of view, a crime was seen as a crime against society or the state, not merely a wrong against the actual victim. The purpose of the punishment was not to redress private damages but to deter the criminal and others, and in this way to repay the offender's debt to *society*, not to the victim. The effect of this rational or utilitarian philosophy was that the victim's role in the prosecution and punishment of the criminal all but vanished. However, the right to initiate private prosecution in most cases remained.

This situation for the most part prevails in Canada today. The Crown Counsel acting in the role of a public prosecutor is presumed to represent the interest of state above and beyond the individual victim in an unbiased and impartial manner – in other words, he acts for the state, not for the victim. In both a practical and symbolic sense the Canadian criminal process is a public process. The victim's input is limited to deciding whether to report the crime and/or to cooperate in its prosecution. Other than these options, the victim has few absolute rights in the prosecution.

In a recently published book "Victims Before the Law" by John Hagan, the author states: "The most fundamental constraint on the discretion of public officials to extend consideration to victims involves the priority attached to the principle that accused persons be treated 'fairly' and in a manner consistent with the Canadian Charter of Rights and Freedoms. Courts of appeal may intervene where what occurs before, or during the trial violates this principle and amounts to a miscarriage of justice. Thus, care must be exercised in promoting measures consistent with 'victims' rights' but inconsistent with the rights of the accused. In the end however, some balance must be struck, as the following comments of an American commentator make clear: "The goal of ensuring that the government be fair, just and decent in its treatment of citizens was never intended to be restricted to just the handling of citizens suspected of violating the law. The ideal is to make all government contacts with all citizens fair and decent. A system of government that scrupulously observes the rights of



defendants but treats victims of crime with callous indifference does not meet this ideal''.

In recent years in Canada, as well as elsewhere in the world, the victim, the victim's place in the criminal justice system and his needs have been the focus of increasing attention. Society is beginning to realize that it has a duty towards, and a responsibility for, the victim. This attention has arisen partly from humanitarian reasons, such as having regard for the victim's loss or suffering, and partly because it would seem to be only just and fair that the state owe an obligation to the victim at least as high as that owed to the accused. The variety and number of pamphlets, reports, and brochures available on the display tables at this Consultation is evidence of the growing interest and concern of the public in general.

In the recent past, Ontario along with other provinces has established a Criminal Injuries Compensation Board. It has, on a special project basis, established victim assistance programs; some police forces have set up special units to assist victims with their needs and problems; a Federal/Provincial Task Force on Justice for Victims was established and a report prepared (I believe there are some copies available today); legislation is being reviewed and amended to take into account victims' needs; victims themselves have organized in self-help associations, and just last month the Provincial Justice Secretariat sponsored an Ontario-wide Community Justice Week, a major public awareness campaign which focused clearly and specifically on justice for victims, a campaign which emphasized that victims are not just statistics but people we should care about.

I could go on and point to other initiatives in other areas of endeavour which reflect society's concern and are designed to aid victims of violence. However, speakers who are better qualified than I, will up-date you on the current status of these initiatives later this morning.

In spite of all this awareness, and all the actions taken, we in the Justice Secretariat believe that the victim of a violent crime is still largely the forgotten player, not only in the Criminal Justice System but in society as a whole and that this situation must be rectified. We have identified some of the needs of the victims and have formulated recommendations to meet these needs, but we believe that the victims themselves should have a forum to express their wishes, and we hope that this will be that forum.

You will note that the Provincial Secretariat for Justice did not call this meeting a "Seminar" or a "Conference". We called it a "Consultation". We chose that word deliberately and with care, because that is exactly what we want - a face-to-face consultation among victims, those who have worked with victims, and ourselves, government officials. Certainly there have been briefs received from these various groups in the past, and certainly government officials have met separately with individuals

and groups to hear submissions on these issues. But we want more than that; we believe that a dialogue amongst these groups will accomplish much more than written submissions or reports. This was the primary focus or goal which we had in mind in preparing the agenda for this Consultation.

The aims of this Consultation are to encourage an exchange of views and ideas amongst victims of crime, criminal justice officials, and victim justice specialists; to increase public understanding of victim justice and to identify areas for improvement in victim justice. You will note from the agenda that we have divided the time roughly in half between the plenary sessions where speakers can make formal presentations of general interest and where limited questions can be asked, and the concurrent workshop groups where special areas of concern for victims can be addressed.

The plenary sessions are designed to permit the participants in this Consultation to listen to victims' views and to discuss general issues.

The success of the workshop groups will depend upon the active participation of all persons in the group. This is where much of the consultation and dialogue will take place.

We have set up four specific work groups: a workshop on Police and Crisis Services; another on Compensation and Financial Support; a third, Victim Participation in Criminal Justice; and a fourth, Violence Prevention. In our invitation we have assigned participants to a particular group. The workshop agenda is progressive, or building-block in nature, i.e., in the first session of the workshop we propose to establish or identify the needs of the victim and where we are in respect of those needs. The second session will identify services required to respond to those needs in that particular area, and the third session will result in recommendations. It is for this reason that we ask you to remain within your working group throughout this Consultation, however, if you feel that you can make a greater contribution in another workshop, then of course, we will have no objections to your moving.

Before I introduce our key-note speaker this morning, let me say that I am sure you will find the rest of this Consultation worthwhile, you will be encouraged to ask a lot of questions, including the tough ones because that's what we are here for – to put the issues on the table and to discuss them.

## CHAPTER 2

# First Keynote Address

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SPEAKER (MAY 7, 1984 – 9:45 A.M.)

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- THE HONOURABLE GORD WALKER, Q.C.  
PROVINCIAL SECRETARY FOR JUSTICE, ONTARIO
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*Welcome on behalf of the Province of Ontario . . . The need for creative and positive dialogue with victims' groups . . . The concept of victim justice . . . a call for action on restitution . . . victim compensation and assistance – who should pay? . . . a special fund through a fine surcharge . . . public education on victim justice-Community Justice Week . . . violence prevention and the role of the Federal parole system . . . the need for tighter guidelines on national parole involving dangerous offenders . . . the need for greater involvement of victims in the justice system.*

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STEPHANIE WYCHOWANEC

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Now, it is my pleasure to introduce our keynote speaker today, the Honourable Gordon Walker, Ontario's Provincial Secretary for Justice.

Born and raised in St. Thomas, Mr. Walker has been active in politics for more than 15 years. While still a university student, he was elected to the London City Council. During that period of time he graduated in law from the University of Western Ontario, started his own law firm, and married Harriet Headly, a former high school teacher. He and Harriet have two young daughters. Mr. Walker remained on the London City Council for two terms, but in 1971 he entered provincial politics, succeeding former Premier John Robarts as the Member for London North.

Since 1977 he has represented the people of London South, where he now lives.

During the past five years Mr. Walker has held a number of Cabinet posts. Last July, Premier William Davis presented Gordon Walker with a new major challenge by again putting him in charge of the Ontario Provincial Secretariat for Justice. Mr. Walker enthusiastically embraced this challenge of working closely with four different line ministries to coordinate, develop and help maintain all justice policies in Ontario. During his tenure as Justice Secretary, Mr. Walker has instilled a victim justice undercurrent to many initiatives now being undertaken by the Secretariat. Mr. Walker believes in a justice system where victims are equally as important as the people who commit the crime and that a more equitable balance in this regard must be achieved. The victim must become as important as the criminal. Mr. Walker has been concerned with victim justice for a long time. In 1979 and again in 1981 he expressed his concern for victims to a Federal/Provincial conference of Justice Ministers in Ottawa. The result was a special Task Force on Justice for Victims of Crime which I have already referred to. That Task Force, chaired by his then Deputy Minister, reported to a Federal/Provincial conference last July with 79 recommendations to assure justice for victims.

Several of those recommendations have recently been adopted by the Federal government, including a greater emphasis on restitution for the victim, the prompt return of stolen property, and the introduction of a statement outlining the impact of the crime on the life of the victim.

Recently, the Justice Secretariat has undertaken numerous initiatives to help crime victims. As earlier mentioned, we sponsored a Community Justice Week. Now Mr. Walker is pursuing the establishment in Ontario of a special Victim Compensation Fund, a Fund which could raise several millions of dollars a year, and which would be paid for by offenders, not by tax payers. Such a Fund could supplement the existing Criminal Injuries Compensation Board, and could finance new initiatives in the area of victim justice. And last and I hope by no means least, this consultation here today and tomorrow is another indication of Mr. Walker's dedication to helping victims of crime. Ladies and Gentlemen – The Honourable Gord Walker.

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#### THE HONOURABLE GORD WALKER

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Thank you Stephanie. It is indeed a great pleasure to be here with you today because this particular cause – the cause of victim justice – is one that I have personally been espousing for several years. I am honoured and pleased to kick off what is one of the largest meetings of victims, victims' groups and government officials in the history of Canada.

I want to welcome each and every one of you, victims and their families, specialists on victim justice, community help organizations,

police and government officials and all the others who have joined us here today. You are all doing important work and should be proud. I also want to extend a warm welcome to those who have travelled from afar to be with us for these two days. We have guests from across Canada, from California, New York and Washington, D.C. We are delighted that you are with us today. Our American guests have made victim justice a reality in some of their communities and we thank them for helping us to make it a reality in ours.

This is really a momentous occasion for us all. The mere fact that we are here shows just how far we have come. And I think that, in the future, when someone is looking back as to how the victim finally became involved in our justice system, they will look at this Provincial Consultation on Victim Justice and regard it as a milestone . . . a major hurdle in the evolution of victim justice in this country. And it is.

This is an important event because it's a meeting of both victims and policy makers. We are here to exchange views, and to make solid recommendations, recommendations that I can discuss with my Cabinet colleagues, and our counterparts in the Federal government.

The Ontario government regards this two-day Consultation with such importance that the Cabinet Committee on Justice will be holding a special meeting at the conclusion of this conference. The Cabinet Committee, which includes provincial ministers responsible for all of the justice related ministries, will be getting first-hand feedback from *you*. The Committee will receive summary presentations from each session.

We want to hear from all of you. That's why we're here.

We are here because we think it's time that victims were recognized by the justice system and treated with the compassion and dignity which is their right.

I have met with many victims of crime in the past couple of years – indeed some of you in this room – and I have seen the torment and anguish that you carry. And I have seen the frustration that you wear. Of course, no society is perfect – and we are far from that – but something is wrong if we don't do better for victims in the future – and that future can start today.

Historically, the offender has been the centre of attention in our justice system. The resources of the police, courts, legal profession, correctional system, and even the law itself, all focus on the offender. The offender's needs and rights are well articulated and protected. And they should be. But what about the victim? Victims are people too. People we should care about.

Some of the stories I have heard about since becoming involved with various victim groups give me serious concern.

For example, a woman, an innocent woman, is the victim of an attempted murder. It is a terribly violent attack. The offender is dealt with by the justice system and locked away - but what about the victim? Her



The Honourable Gord Walker, Provincial Secretary for Justice, presents the keynote opening address.



sentence is also just beginning. And though the offender can be paroled, she can't. Her life becomes one of endless visits to doctors and hospitals for treatment and counseling. Her life is filled with paranoia and fear. She gets meager compensation and her ability to earn a living has most certainly been affected by this incident.

In another tragic case, a woman loses her husband to murder. She is left with two sons. Her dead husband had always been the breadwinner and now she must fend for herself. They don't have any life insurance. Life becomes a struggle – emotionally and financially – all because a violent criminal took her husband's life.

Obviously, the direct victims of crime are not the only victims. A victim can also be the family. They are victims. And, in a way, I think we all are victims.

Five years ago, at a federal/provincial conference of ministers responsible for criminal justice, I spoke about the concept of victim justice. This was considered new ground for a politician to explore, but since that time a lot of things have bothered me about the way that victims have been treated in our society, and I think it has touched many of the political forces across this land.

Out of the next federal/provincial conference came the Federal/Provincial Task Force on Justice for Victims of Crime. It produced an excellent report last summer. The report, which I am sure most of you are familiar with, contains 79 recommendations. These recommendations included prompt return of property, restitution, improved criminal injuries compensation, victim-impact statements and a host of other suggestions and services.

The federal proposals contained in Criminal Code amendments announced earlier this year by Federal Justice Minister Mark MacGuigan include some of these recommendations. They are a good start, but just a beginning.

Ladies and gentlemen, the time to help victims is *now*. The time to address inequities in our justice system is *now*. The time to correct errors and omissions is *now*.

This Consultation is the first public meeting since the Federal/Provincial Task Force released its report. And what comes out of this meeting will be very important.

All of us in this room share a common goal: the goal of new and better solutions to the inequities faced by victims of crime in our justice system. The goal of this Consultation is to discuss, debate, and propose these new and better solutions.

We have a responsibility to every victim of crime and that responsibility is to be as diligent, creative and positive in our discussions as we can be.

We are fortunate to have in Ontario, one of the world's finest systems of justice. But that doesn't mean there isn't room for improvement, and

that is why the recommendations you make over the next two days are so important.

At the end of this conference, your recommendations will be presented to the members of the Cabinet Committee on Justice. And it is our anticipation that together we will create a positive agenda for action. An agenda that is constructive, establishes priorities, and is mindful of the need to deliver justice to the victims of crime.

We must begin to act now – today.

And we must encourage all victims to get involved in the process.

Today, any politician who even hints that legal aid should be reduced or stabilized will encounter outrage from groups involved in civil liberties, social services and legal advocacy.

But where are the voices of outrage to speak on behalf of the victims of crime?

We spend seven times as much tax money on legal aid, for the defence of accused people, as we spend on providing compensation to victims.

Of the \$320 that every Ontario taxpayer contributes to the justice system, only 32 cents goes to victims by way of compensation. Think of it. Only 32 cents.

I have been suggesting that the offender, and not the taxpayer, should bear the burden of repaying the victim. We already pay enough in taxes to government. No one wants to pay more. We already have a Criminal Injuries Compensation Board, but I would much prefer that all victim compensation be paid for by the offenders.

Personally, I would like to see the Criminal Code amended so that a nominal payment to a victim compensation and assistance fund is added to all fines for federal or provincial offences.

To me, this makes a lot of sense. And I know that when an offender is involved in making compensation or restitution to the victim, the chances of that offender repeating the crime are less. We have proved that here in Ontario.

In Ontario alone, we could potentially raise *\$20 million a year* with such a program, perhaps, as the Attorney General has suggested, by using a sliding scale approach by which a percentage increase is added to all fines as a surcharge. This seems fair – perhaps a 10 per cent surcharge. Let us say a \$300 fine – \$30 to the fund – total cost to the convicted person = \$330.

This concept has been very effective in many U.S. States. Connecticut, Maryland and Pennsylvania have it, and Florida, Virginia, Delaware and Tennessee are among the States that support their entire victim compensation effort from funds generated by special surcharges on fines paid by convicted offenders.

It is true that here in Canada this is not yet government policy, but I am optimistic that with your help and the co-operation of the Federal Government, we can make this fund a reality.

This kind of program would place greater responsibility for criminal behaviour where it rightly belongs – on the criminal.

Now I would like to be able to say that such an idea would be new and progressive. It is progressive, but it certainly isn't new. Restitution is a very old concept. It existed in Roman Law . . . Babylonian Law . . . Persian Law . . . Germanic Law . . . and even in early Anglo-Saxon Law. In fact, even in Ontario, as I speak today, the Minister of Correctional Services, Nick Leluk would tell me that 12,000 criminals last year paid restitution to their victims. The fund is a logical extension of that kind of concept. Indeed, last year the amounts totalled five million dollars that were repaid to the victims of crime.

I believe that the time of the victim has come.

I am pleased to say that Ontario was the first government in Canada to hold a victim justice week. It just passed – April 8 to 14 – and was a huge success. The theme was "Justice for Victims of Crime". The point behind Justice Week was that police departments, crown attorneys, judges and court officials throughout the province would make themselves more visible and more accessible to the people so that every citizen can learn about how our justice system operates.

One of the complaints I often hear from victims is that they had no understanding of the justice process. They didn't know what to expect. And so I say, don't wait until you become a victim. Find out more about how the system works now. And I think people are starting to do this.

Before I finish my remarks today, I would like to say a few things about crime and violence in the community. Without crime, without violence, we would have no victims. So anything we can do to cut down on crime would obviously benefit everyone. And it would make the numbers – victims' numbers – smaller.

I think we have a federal parole system that pre-releases offenders on a too-quick, too-easy basis – a revolving door that turns them out into the community where you and I live.

My colleague, Roy McMurtry, the Attorney General of Ontario, recently criticized Federal Solicitor General, Robert Kaplan – the Minister responsible for Canada's national parole system. Mr. McMurtry was concerned about the case involving Richard Stephens, a man convicted of manslaughter for kicking a man in the back of the head while he was lying on the ground totally defenceless. The issue was raised in the Ontario Legislature by my colleague, Mississauga South M.P.P. Doug Kennedy.

After being sentenced to three years in federal penitentiary, Mr. Stephens is out on day parole, having served only ten months. After one-sixth of the sentence, he is out at liberty, in the daytime. Yet all Mr. Kaplan can say in response, is that Mr. McMurtry demonstrates a disappointing lack of understanding of how the National Parole Board is

constituted, since Mr. McMurtry said, in this case, that parole undermines the sentence meted out by the court.

A recent Toronto Star editorial has criticized Mr. McMurtry for speaking out on this issue and asking for the National Parole Board decision to be reviewed.

I have been asked what I think of all this, and I totally concur with Attorney General McMurtry. Mr. Kaplan is, in my opinion, off base with his observations.

I think Roy McMurtry is right in his call for review because, as the appeal justices said, and I quote, "The victim of this assault was an unoffending citizen who had given no provocation to anyone . . . the offence was a serious one. This is not a case where death unexpectedly and unforeseeably resulted from a comparatively trivial or minor assault . . ."

This is just one case, but, of course there are numerous others. And even today in the media we have the case in Montreal, the Boden case, an individual who had been given a life term for the slaying of four people, a convicted murderer who was on day parole, dining at the Mount Royal Hotel, when he escaped. It seems that there are inequities in the system, and that tells us something about what the National Parole Board is doing.

Yes, there are numerous cases which are all too apparent to many people in this room today. Anyone who can hear thunder and see lightning knows there is something very wrong here with the operation of the Parole Board.

I propose that the National Parole Board rules be changed and their guidelines tightened. Federal inmates should earn early parole for good behaviour and not be granted parole automatically simply for serving a small fraction of their sentence. But that's precisely what's happening. Criminals – violent criminals with long records – are being released from federal penitentiaries at the earliest time possible. Sometimes I wonder if some victims don't spend much more time recovering in hospital than the criminals who put them there spend in jail.

But where are these offenders more likely to commit new offences? In the community? Or behind bars?

At the federal level, parole is an element of our justice system that fosters crime and creates more unnecessary victims. It is time to stop this practice. It is time to get serious with violent dangerous offenders.

We, in Ontario, only receive offenders whom a judge decides should be sentenced to less than two years in jail.

The federal authorities are responsible for the more dangerous offenders. But, according to federal government reports, many of these offenders are treated too lightly.

I believe in victim justice. And I believe in crime prevention. I do not believe in crime creation.

Last month, during victim justice week, I challenged Federal Justice Minister Mark MacGuigan to join with us in implementing a fund for the benefit of victims of crime, a fund paid for by offenders . . . not taxpayers. He accepted the challenge.

Today, I challenge Federal Solicitor General Robert Kaplan to implement changes in the national parole system – changes that will tighten the apparatus by which dangerous offenders get out on the street.

I respect people who can meet a challenge. And that is why I have so much respect for all of you who are here today. People have to get involved before changes are made in the justice system. You, today, are well organized and have definitely become involved in the process. And I applaud your efforts. Just look at what has happened in recent history . . .

. . . Victims' groups have sprouted up all over Canada, pushing for victims' rights, tougher sentences for dangerous criminals, getting tough with drunk drivers.

. . . Victim impact statements, by which victims or their survivors submit in court how the crime has affected them, are taking place in Ontario and elsewhere.

. . . Victims are involving themselves and ensuring that a dangerous offender is denied bail.

. . . Victims are helping victims, and that is so important.

The good work of victims' groups is helping to educate the public about how the justice system works and what changes are needed. You – all of you – are truly remarkable people. Many of you have experienced crime, in some cases violent horrible tragedies, and yet, you have pulled together to perform concrete services for yourselves, your communities, your country. And I congratulate you.

If more people would get involved, and make their feelings known, we would have a justice system that involves the victims of crime, just as much as it involves the offenders.

That is a system in which all society would benefit.

That is the kind of system we all want. That is the kind of system that the Ontario Government is striving to achieve.

A distinguished American Justice, Oliver Wendell Holmes, once said, "The life of the law is not logic, it is experience". You have the experience to show us how to breathe new life into our laws so far as they affect victims.

Please give me as many proposals as possible to take to the Cabinet.

Thank you.





## CHAPTER 3

# Victims' Views of Justice (I)

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PANEL (MAY 7, 1984 – 10:00 A.M.)

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- STEPHANIE WYCHOWANEC, Q.C. (CHAIRPERSON)
  - BOB SAUVE, SARNIA, ONTARIO
  - DONNA EDWARDS, ST. THOMAS, ONTARIO
  - HELEN COLLUM, WILLOWDALE, ONTARIO
- 

*The purpose of this session was to help participants understand the experiences and feelings of victims of violent crime . . . three case histories were presented by family members who shared their feelings and personal views based on their experiences from the date of the crime.*

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STEPHANIE WYCHOWANEC

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Our first panel this morning will provide a victim's view of justice. The objective of these presentations is to help participants understand the feelings and personal experiences of victims of crime. Those on our first panel are people who fortunately, for most of us, form a very small select group in our society. They are members of this group, not because they wanted to be or because they volunteered. They are members of this group because by some unkind fate, they or members of their family were innocent victims of violence. Our panelists are special, even within that select group, because they are prepared to talk about their experiences. Their stories are not easy to tell and they are not easy to listen to either. Maybe this is one of the reasons why society, in general, has not responded to victims' needs. Society wasn't prepared to listen to the victim's story, to be discomforted, to be frightened, to be moved. But society has a duty, an obligation, and a responsibility to the victim, to hear him and to respond to his needs. It is therefore fitting for the Justice

Secretariat to provide this forum for the victim. We, in the Justice Secretariat, are grateful to all the victims who have come forward and said "yes, we will tell our story, painful as it may be for us to do so", and we are also gratified by the response to our invitations to those of you who have come, who have not yet been victimized, who I hope will never be victimized, but who are prepared to come and listen and to ask questions.

Our first panelist is Bob Sauve. Bob is a resident of Sarnia. He is an ordinary citizen like you and me. However, his only daughter Kim, at the age of fifteen, was brutally murdered along with another teenager, Shelly Brazeau.

The Sauve family was the first family of a murder victim to present orally, a victim impact statement to the court in Ontario. Mr. Sauve is now a spokesperson for the Concerned Advocates of Justice group in Sarnia and I would ask you to welcome him.

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### BOB SAUVE

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Thank you Stephanie.

Before I get started, I would like to say that I am speaking for my daughter Kim, I am speaking for my wife and I am speaking for the Brazeaus.

I would like to relate to you the events and happenings of a few days in the last week of August, 1983.

On a Sunday evening, on a rainy, hot Sunday evening, our two girls had the misfortune of getting into a stranger's car. They were to be home at 11:30. They got into his car at 11:00. We have no idea why. Within four hours, we were concerned that they were not there. We contacted everybody. We contacted the police at 4:00 in the morning. That was our first contact with the police. The next day we were given a description of a car and the person by friends of our daughters. After a lot of leg work by myself and Mr. Brazeau, we found a car and a suspect matching the description. Again we related our fears and the evidence we had to the police. Their answer at the time was "Okay, I'll walk my dog by that house this evening".

Later on, we went on to talk to the murderer himself, and we knew definitely that his story to us was a pack of lies and that the neighbours were telling a different story. Again, we contacted the police and related to them what we had found and this was at a quarter to eleven one evening. The desk sergeant's answer at the time was "Could you phone in fifteen minutes; there is a shift change and you can repeat everything to the next police officer".

Frustrated, I phoned an acquaintance who was a detective and he said he would send somebody to the address to talk to this gentleman - the murderer. The detective talked to the murderer for a few minutes but was

called out on a break-and-enter of a shoe store at the other side of town. He did not finish his investigation of this man.

Within twenty four hours they had found some clothing by a golf course surrounded by many corn fields. We were told that they had found some clothing of our girls. At that time, I asked the police department if they had people in the area searching. I was told that their manpower was limited and that there were a few cruisers patrolling the area. I asked them if it would be okay if I organized a search party. Their answer was "Well, as long as you don't trample on any farmer's crops". This was on the Wednesday evening.

Within two hours, myself and Mr. Brazeau had been able to gather a group of co-workers, numbering close to three hundred. They started their search at 4:00 on the Wednesday afternoon and at 7:00 that evening they found our two girls in a corn field. Identification was only possible through dental records.

The next day, on Thursday, Mr. Brazeau and I made funeral arrangements with the understanding that visitation would be on Friday and a church service on Saturday. On Friday morning, just to double check, we phoned the funeral home to see if everything was set to go. The response was "Mr. Sauve, the girls are still in the field". This was Friday morning; they were found Wednesday evening in the field.

For many weeks after, Mr. Brazeau and I asked for details of the autopsy, so that we could hear in the privacy of our own home, the particular details of how our daughters died. It wasn't until five months later that, in the preliminary hearing, we found that our daughters' jaws had been removed in the field for identification. We were not informed of that for five months. That means that we still have to exhume and cremate the rest of our daughters' belongings.

Within weeks we had been contacted by a Victims of Violence self-help group. They didn't push, they just sent us a lovely letter and we made contact with them. We found that they were people like ourselves, who have suffered a great tragedy, and only people who have gone through it can talk to other people. I was told that I had rights, just as many as the accused. I was told many things.

Mr. Brazeau and I lobbied through countless letters, to Members of Parliament, Justice Ministers and to Roy McMurtry, the Attorney General. We had made demands. We felt that we needed a Crown Attorney capable of handling this case. Our local Crown Attorney, we felt was not capable of handling properly the murder case of our daughters. We were granted that right. Mr. Ray Houlihan from Walkerton, Ontario handled the case. Also, one of our demands was that there would be no plea bargaining. That was granted. And Victims of Violence, through Don Sullivan and Shirley Harrison made me aware that I was entitled to a Victims' Impact Statement. The statements made by Pauline Brazeau and myself were basically to tell of the love of our daughters and to dispel the lies that

were stated in court by the murderer. He stated that my daughter, fifteen years old, and Pauline's daughter, age sixteen, had haphazardly decided to go into a life of prostitution and pornographic movies within just a few minutes in his car, that he had driven them to another town and that some other people had murdered the girls. But those lies were still hanging. We felt that we had to get up and speak for our daughters and also to tell the murderer face to face that we had very few rights but, we do have one right, to make sure that during his stay in prison, any time he would be eligible for parole, whether it be fifteen or twenty years down the road, the Parole Board of Ontario would be well aware of every aspect of his crimes and that he had been completely unremorseful in the trial.

We were very lucky to have made contact with the self help group. We have formed our own group from people in our area. It is hard to imagine, but others had not been aware of several people who approached our group with tragedies of their own. For some people, their daughter had been murdered; the culprit was sentenced for manslaughter. For others in our party, their daughter had been murdered ten years ago, and the murderer has still not been found.

By working together, we hope to fulfill and change our system to the point where, we, the victims have as many rights as the criminal.

Thank you.

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### STEPHANIE WYCHOWANEC

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Thank you very much Bob.

Our next speaker is Donna Edwards. Donna comes to us from St. Thomas. Donna is the mother of a son, a son who is now a paraplegic. When he was just a young man of eighteen, he began working in a convenience store. On his very first day at the job, he was shot by a person who was out on parole, or who had at least been convicted prior to that time for a number of offences. This son, as I have said, is now a paraplegic and Donna, of course, is now a victim of crime.

May I present to you, Donna Edwards.

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### DONNA EDWARDS

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In August of 1981 . . . you will all appreciate that this is difficult. In August of 1981, my son Danny was shot and paralysed in a variety store holdup. Danny was alone in the store when the robbers entered. He offered no resistance to their demands, and in fact, it was as he walked to the back of the store in direct obedience to their command, that he was shot in the back and as he lay there he was repeatedly kicked and finally dragged to the back of the store, to lie helplessly to die. With a severed spinal cord, broken ribs, contused kidney, lung punctured in two places

and his liver torn in two from that bullet ricocheting back and forth through that eighteen year old body – four days before he was to leave for Bible College.

A beautiful life felled to the ground by one who passed through our obviously ineffective justice system and returned to society. This was not the first tragedy of this magnitude in St. Thomas. Nor was it the first robbery with violence committed by these two particular criminals, but rather, the third. I sat in court and I watched these two criminals who shot my son laugh, as he was wheeled into that courtroom in a wheelchair. I saw two lawyers do their best to have these criminals freed from any conviction. Two lawyers who are being paid by Legal Aid. Paid by you and paid by me. I paid two lawyers to do their best to keep these two thugs who paralysed my son, free of conviction. I ask you, is that justice?

I heard a judge state, “I see no remorse on the part of either of these individuals” and he gave them seventeen years compared to Dan’s life term. Recently, this was reduced to fourteen years. And the repeated offenders, because of a loose parole system, ladies and gentlemen, can be back walking the streets next year. Now these are three-time offenders, this is three years after their last offence. A grave potential threat to all of society, to your children, to your grandchildren. Nice thought? That ladies and gentlemen, is called justice.

I suggest that if this does not affect you, you have become as ineffective as an individual as our justice system is a system. If this doesn’t awaken you to the decayed and lenient condition, I invite you to meet my son condemned to a wheelchair. Or meet my friends, many of whom were not as fortunate as I, but rather weep for their dead children. The victims of like tragedy. While the criminals are freed having served only a short confinement and a scolding of “Naughty, naughty”, all in the name of humanity and rehabilitation. Do you really think society sees this as justice? So you say okay, we have a mother whose son was shot and paralysed. Violinist, scholar, everything going for him. So we’re sorry, we are really sorry lady, for both you and your kid, but that’s the breaks; it can happen to anyone. You are absolutely correct, it can happen to anyone and it is happening far too often. Because there is no deterrent with an ineffective justice system and indeed, I suggest, ladies and gentlemen, that with this ill functioning of the system, we are fostering in individuals an insecurity and a lack of faith, which can only lead to the deterioration of the moral health and the integrity of society. Therefore, I ask you, is our justice system indeed, contributing to crime?

I am not fighting this campaign for Dan. It’s too late for him. He has a lifetime sentence as a paraplegic. It’s too late to see that these criminals get a sentence equal to the crime committed. But it’s not too late to take the necessary steps to protect thousands of other kids out there. Your sons and your daughters, your grandsons and your granddaughters. I don’t especially enjoy the position in which I have placed myself, in lobbying



for a firmer justice and penal system. I don't like the risks and I don't like the attacks that are coming, but I heard and I saw my son, when he read of another incident similar to his, sobbing as he said to me "Mom, when is somebody going to do something?" That day, the job became mine.

We ask ourselves, how did crime get to these horrendous proportions? I'll tell you how. Because you and I for too long have sat back in apathy playing the ostrich game, hoping that if we bury our heads in the sand, when we pull them out, the crime will be gone. The police will have it all under control. How can the police get it under control when they've received so little co-operation. They too are being shot down in their efforts to enforce justice. Have you and I become so uncaring, so unloving, so noncompassionate, that we don't care about our policemen, our children, ourselves? It's time we quit playing the ostrich game, pulled our heads out of the sand and faced reality. Crime is not going away. It is on the increase. We live in an unsafe environment; and as long as we continue to do little to stop the criminals, we, ladies and gentlemen, are as guilty as those who hold the gun or the knife. Have you sat for too long in apathy over the past few years? I wonder, what part did you play in the paralysation of my son?

Thank you.

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### STEPHANIE WYCHOWANEC

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Thank you Donna for that excellent presentation. I'm sure your son will be very proud of you.

Our third speaker on this panel is Helen Collum. Helen's son was killed by a drunk driver and she too is a victim of crime. She is now a member of the Board of P.R.I.D.E. and she chairs a seven-member committee on victim support. Helen please.

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### HELEN COLLUM

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Mr. Minister, Madam Chairperson, colleagues, ladies and gentlemen. As you have already seen it is difficult to be personal without being emotional. I have got my water glass handy.

Two quotations have come to my attention over the last couple of years, and I realize that someone has expressed my feelings, although we have never met. First, "Someone has taken the sunshine out of my life. I will not suffer in silence." And second, from Nietzsche: "That which does not kill me, makes me strong."

The third anniversary of the death of our son is approaching. Someone has taken the sunshine from my life. I have become a vicious tigress and



the feeling shows no signs of abating. I have this primal urge for protection and redress. The man who killed our nineteen year old son, had a blood alcohol level of 240 milligrams. He was going north in the south-bound lanes of Highway 400. His sentence was one year. He served four months. His license was not suspended, an appeal was not granted. When he had paid his debt to society, he came back to his car and his job. He deprived our son of possibly 50 years of his life. He deprived us, his parents, his brother and sister, his friends, of many more years of loving and caring. Who knows what contribution to the world that young man might have made. Society, through the courts, says "Tut tut, you did something naughty, we're going to punish you, we're going to make an example of you. You must go to your room and think about it until you can be a good boy."

At the time of the killing, my husband and I were vacationing at our summer place . . . a rocky island in Georgian Bay. Jeff, the nineteen year old and our daughter Melanie had been living at home in Willowdale for the summer. Our other son Phillip has an apartment downtown. Melanie was the first one to receive the news. She was assisted competently by the two Metro Policemen who came to the door about 1:00 a.m. After we received the news around 2:00 in the morning, dazed and shaken, confused, frantic, moving like robots, we left to drive the million miles, which was really only a couple hundred, back to the city.

Memories, feelings, thoughts flooded through my cold, rigid body. He just left us a few days before to go back to his summer job at Canada's Wonderland. We'd had a lovely time together, just the three of us. We sailed north one day towards Britt, stopped for lunch and a stroll and a visit at the coast guard station. On the way back I was feeling a little sea sick, but I joked around and hammed it up, and I have a picture in mind of him leaning on the gunwale, laughing at his silly mom.

Disbelief, numbness, this isn't really happening to us, lightning doesn't strike twice. First, Danny over thirty years ago, now Jeff? We'll have to go through with it, go to the hospital, but that didn't last long. The irony of it all, even in the midst of all this trauma, natural functions prevail. I went into a service station to the washroom. A radio was playing. The newscaster was saying "Another traffic fatality last night on the 400. Nineteen year old Jeff Collum of Willowdale was hit head on and killed instantly." And so on, and so on, and so on. Later that morning in the morgue, at York Finch Hospital, the four of us stood holding hands as we looked at what remained of our Jeff. The sunshine was gone from our lives.

The days and weeks that followed, were filled with all the details and the grief-work of a family that has suddenly lost a loved one. A loss different from some because it was the snuffing out of a very intelligent, very capable young person on the brink of manhood. Different, because

his life was wasted by the irresponsible actions of another human being. Not an act of nature, like the death from cancer of our first son Danny, many years earlier.

Robert Benmergui was charged with criminal negligence, causing death. The judicial system ground along its plodding way. We were simply observers to the process. By our own initiatives, we became informed of details of the case and attended court appearances. There was a preliminary hearing in June, 1982. The plea was "not guilty", even though his blood alcohol level was established. A date was set for trial by judge and jury. That was to have been in November. A few days before the trial, plea bargaining was attempted and refused by the Crown Attorney, Larry Owen. Then in the last two days, the plea was changed to "guilty." A presentence report was ordered and a date was set for sentencing in January, 1983.

By January, 1983 we had adjusted to living without Jeff, as much as we ever would. We decided to face up to what we were certain would be one more disappointment by attending the sentencing. Larry Owen had said that he knew it was ridiculous, but would we please try to condense into one page, what this had meant to us. We took it to his office before the hearing. At that time he told us briefly some of what was in the presentence report and that he was asking the judge for a sentence of two years less a day, which would mean reformatory, not penitentiary.

The court room scene was fascinating. I can say that now. Howard and I sat holding hands in the almost empty court room. The events of the past year and a half rolled from my memory like a video tape and tears flowed down my cheeks.

I felt limp, and weary, wanting this bad dream that was reality to unwind and go away. At the same time, I was experiencing other thoughts as well. I was not just the victim of Benmergui's crime, feeling sorry for myself. I was an observer of this little drama in an Ontario court room. Benmergui sat slumped over, head in his hands. Oh, he was a sorry boy that day. The defence lawyer in a quiet, oh, so respectful voice, rhymed off case after case as precedents to give the judge reason to fine him and let him go. Oh yes, and at last, we had our first inkling of what went on that night. You see, Benmergui had had "amnesia" and couldn't remember until now. His father toddled up to the witness stand and attempted to take the oath on his personal copy of the Old Testament and told what a good son Robert was and how sorry they all were for each other and that they talked about it every day on the telephone. His boss came forward to say what a responsible person he was and what a good employee. Larry Owen asked if he thought he was responsible the night he was going north in the southbound lanes of the 400 with a blood alcohol level of 240 and killed somebody. He said "Well, maybe not that time".

It was almost funny. I glanced sideways. Crazy thoughts flitted through my head. This is set up like a wedding. Bride's side. . . . Howard and I behind Larry Owen. Our beautiful son was referred to a couple of times as "the victim", with a small "v". Groom's side . . . the Benmergui contingent, behind the defence. The judge retired to consider the sentence. A pathetic woman's voice from the other side sobbed. "They can't take him away, it was only an accident".

When the judge returned, I heard him say what had happened was a tragedy for two families. The first and only time in a year and a half that we were recognized by the courts. The sentence was one year in prison. Robert Benmergui became a prisoner for the first time since the killing and was led away to spend four months with his prickling conscience in a private government-owned and publicly supported "hotel". When he left there, I assume his car was waiting for him. I know his job was. Larry Owen requested an appeal on the grounds that there was no suspension of license. It was denied. The case of Benmergui versus the Crown was closed.

Four months later in May, 1983, Robert Benmergui returned to society a free man; his debt was paid. At the Collum house, still no young man comes home from college on weekends. No surprised and happy voice lights up the phone like it did one day with "Hello, how did you find me!" (I'd got lonesome for him and tracked him down at work.) No grandchildren will put their little arms around our necks or carry on the Collum name. We have only memories that are threatening to fade with time.

Throw a pebble in a pond and the ripples go out until they reach the shore. One young man celebrates with friends, maybe even his boss. He's loaded, smashed, drunk. His friends let him get into his car and drive away. He is about to shoot at random with a loaded gun. Somehow, he goes the wrong way on a divided highway. A short time later he has killed, and the ripples begin. Howard and Helen, father and mother, devastated by yet another tragedy in their lives. Melanie and Phillip, sister and brother have lost the kid brother that they were just getting to know as a friend. Jennifer, the girlfriend, for over two years . . . oh, the plans they had. She almost quit university that year. It took a couple of years before she could relate normally to young men. Jen's Dad, a judge (Jeff was the favourite boyfriend of his three girls) . . . how did he face drunk drivers and give them a fair trial after that? Glen, his best friend, a roommate at college, lost his year at university and within a year, two more close friends . . . Jennie Isford was murdered, and another died of a heart attack. Jeff's grandfather, 87, turned to his religion for answers, started quoting scriptures, "Only the good ones are taken, the evil ones are left." And so the ripple went on. Friends, teachers, classmates, employers and by the middle of August of that year, we had collected anecdotal records of nearly a dozen "wrong-way" stories.

After January, 1983, I began to accept media interviews and to become active in P.R.I.D.E. (People to Reduce Impaired Driving Everywhere). I had been advised to remain low profile until the criminal case was closed. I have a full-time job as an elementary school teacher. I am trying to keep a balance in my life knowing that it is not healthy to dwell on these things, but I have abilities and experience that I must share with other victims. I feel that I want to do all that I can to prevent others from experiencing what our family has gone through since July, 1981.

How were we treated by the police and the courts? The police did everything they are trained to do, and did it well. The young OPP officer even cared enough to attend all court appearances voluntarily. The courts conducted their business as required. The Crown Attorney did more for us than necessary or than he was paid to do. How do we see the justice system? These observations and questions might explain our concerns. We felt invisible and insignificant in the courts. The only acknowledged victim was dead. Are we the living members of his family not victims too? Thousands of dollars of taxpayers' money and hundreds of hours of counselling have been spent to rehabilitate the killer. Who will rehabilitate us? Are the courts not overly preoccupied with the rights of the accused? Is killing by drunk driving a more socially acceptable homicide than murder? Why must we sue an insurance company to receive anything but minimal compensation for our loss?

Our files at P.R.I.D.E. are bulging with case histories that make this story sound pale. I am speaking for those people now. I will be strong and I will not suffer in silence.

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STEPHANIE WYCHOWANEC

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Thank you Helen.

Ladies and gentlemen, what can I say. Our three panelists are truly remarkable people and they have told their stories well. I watched the audience as they were speaking and I could tell that you were moved, in fact, I could see tears in some of your eyes. But we need more than tears now and we need more than sympathy. We need to have some concrete proposals from you, the participants in this Consultation. I would ask you to think about what you have heard this morning, and to think hard about what we can do to help the victims of crime.

## CHAPTER 4

# Response to Victims' Concerns

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PANEL (MAY 7, 1984 – 10:45 A.M.)

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- STEPHANIE WYCHOWANEC, Q.C. (CHAIRPERSON)
  - CHRISTOPHER NUTTALL  
ASSISTANT DEPUTY MINISTER, SOLICITOR GENERAL CANADA
  - DON SULLIVAN  
EXECUTIVE DIRECTOR, CANADIAN CRIME VICTIMS ADVOCATES
  - IRVIN WALLER  
PROFESSOR OF CRIMINOLOGY, UNIVERSITY OF OTTAWA
- 

*Overview of victims' needs and rights, as reflected in the Report of the Federal/Provincial Task Force on Justice for Victims of Crime. . . . review of federal initiatives in the areas of victim justice research, victim services demonstration projects and victim health care . . . victim rights advocacy and proposals for change . . . review of victim justice initiatives in other jurisdictions and their possible implications for Ontario.*

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STEPHANIE WYCHOWANEC

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Our intention with this part of the Consultation was to provide an overview of the range of ways in which various needs of victims might be met in Ontario. For this purpose we wanted expert opinions representing different perspectives. Our participants on this panel represent government officials, victims themselves, and the legal academic field. Our first speaker is Christopher Nuttall, who is the Assistant Deputy Minister, Programs Branch, in the Ministry of the Solicitor General of Canada. Chris is the Co-chairman of the Federal/Provincial Working Group on Victims of Crime. This group was established following the publication of the Fed-



eral/Provincial Task Force Report on Justice for Victims. Chris is responsible for the federal branch that has provided leadership and funds to develop victim assistance in Canada through programs such as conferences, innovative projects in police agencies and research to identify the needs of victims.

Christopher Nuttall, please.

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### CHRISTOPHER NUTTALL

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Thank you very much.

Following the first part of this morning's work, I almost thought I would come and say "Well how do you follow that?" and I think that would really have been a defeatist attitude to take. I think that the points that have been made this morning about some of the problems that victims and families of victims face, make it sobering, but what we have to try to do is to be realistic and helpful in the way in which the criminal justice system now should move.

I am going to talk about the Federal/Provincial Task Force on Justice for Victims of which I was a member, some of the things that have happened since that Task Force reported and some of the things that we hope will happen from now onwards. One of the points that the Task Force made was that it has taken too long to realize that injustice may be taking place in the name of justice and that now we have to change the direction of the criminal justice system to redress some of the imbalances which have taken place. That is going to be a long and difficult job. However, I think that we have started and I think we can point to quite a lot of real success so far.

I think that what Stephanie Wychowanec said, when she opened with an historical overview, was very useful. It is fascinating to see what the role of the victim has been over the last five or six hundred years. But in the relatively recent past, probably in the last hundred years or so, it has been assumed that punishing the offenders is the way to help victims, and in fact, people have stressed that that is the way to help victims. The early movements in the direction of helping victims in this modern era really started with the women's movement and the rape crisis centres and the homes for battered women, which started in the late sixties and were developed through the seventies. Often this was a very lonely task for these groups of people, and I think that gradually, over the last ten years, we have been able to transfer and to generalize this kind of concern to other kinds of offences.

The criminal justice system is basically still designed to assume that the way we help victims is reflected in the way that we deal with offenders. One of the things that we have found however, is that clearly, that isn't enough and that isn't what victims want. Some of the things which victims need, came out in the talks this morning. Studies that we have carried



out indicate that many victims want information. Overwhelmingly, they feel that they don't know enough, and they are not kept informed enough, and they want to know about the criminal justice system and its response to crime. They certainly want to know about their role in the case, about the progress of cases through the courts, about what is happening to them and whether or not they can have any effect on what is going on in the courts. The Victim Task Force Report stresses that people do not wish to be victimized twice.

The other things that victims seem to be most concerned about are receiving reparation, some sort of compensation and recognition, and finally, counselling. A great deal of the Report is about maintaining personal dignity and integrity, and I think that is one of the lessons we have learned. Services wanted vary by offence. That is clear and I don't really think I need to add that "break and enter" victims want services on how to secure the home.

Victims are expressing the feeling that justice has not been done, that whatever needs to take place in the system to balance that lack of justice should now take place. Another point is that if victims don't feel that justice is being done, if they don't feel that the system is helping and is concerned about their dignity, their actions may take directions which probably don't help the victims themselves and which probably don't help the justice system either. The cries for help and for punishment for offenders, can sometimes take the place of positive and creative things which could, in fact, help.

I think we also see that the offenders' rights, victims' rights, collective rights, individual rights – a whole set of rights – are often interpreted as being conflicting. This has been one of the problems that if you say you're in favour of victims' rights then you have got to be against offenders' rights; individual rights versus collective rights, and so on. Somehow these elements of the justice system are at loggerheads, and I think that one has to produce a justice system which recognizes the compatibility of rights, which recognizes that one may have to rebalance the emphasis which is placed on certain areas. The basic compatibility of those rights is absolutely crucial.

The Task Force Report was a real Canadian effort. I would like to say here, that we recognize Gordon Walker, whom you heard, and his crucial role in starting a federal/provincial direction for producing something concrete. Stephanie Wychowanec's predecessor, Don Sinclair, was the Chairman of the Federal/Provincial Task Force on Victims, and I really want to say what a great deal I owe to him and I think the report owes to him, for his drive, his concern and his desire to humanize. He made sure that the project was directed towards practical ends, that it didn't just become a vague reciting of problems, but was designed to help.

There were some copies of the Task Force Report at the back and I'm sorry that there were not enough to go around. The demand has been

absolutely enormous. We are printing some more, but at the moment we have distributed all the copies that were left. If you have got the Report, you'll find that Chapter One sets the tone.

The Report varies in detail and in the importance of its recommendations. Some look to be fairly insignificant. Some of them however, are very important, and say a great deal for long-term directions of the justice system. The Report recognizes competing interests. I think it recognizes well this business of making compatible things which may seem to be incompatible. And I think it recognizes also the federal/provincial responsibilities for doing something in the area of victims. The provincial authorities clearly are responsible for the main thrust in the area of services, and for many of the programs which victims need. The federal government is responsible for changes in the Criminal Code and there are a number of recommendations for such change. I think we are all responsible for changing the atmosphere within the criminal justice system.

There are three levels of recommendations in the Report. First, there are proposals to change the administration of justice which will improve the lot of victims. Some of them deal with such things as prompt property return, and with immediate services to victims of whatever type of offence, and of course in this conference we are particularly concerned with the victims of violence. This area of administration of justice, is largely of provincial concern.

The second level is this area of dignity; the way people are treated by the justice system; the way the police treat victims; the way the courts treat victims; the way the whole system has considered victims as adjuncts to it. They have been there at its beck and call to act as witnesses, to provide information, to "stick around", to get babysitters at an instant's notice, or whatever. The Task Force Report deals with higher level concerns – how to make sure that the old people, the women, the children, who have been victimized and terrified feel that somebody is concerned, that they are not left out in the cold, that they can "come in from the shadows".

And the third level deals with legislation, and with some of the legislative underpinnings which have to change in order that victim justice can take place. We are all involved in these changes, but the second level, concerning the general atmosphere within the justice system is, I believe, the most important consideration.

In the Task Force Report itself, you will see that there are 79 recommendations and that they are divided broadly into three categories: "legislation", "services" and "information".

Since the Task Force has reported, a great deal has gone on in the federal government and in the provincial governments. Ontario, in bringing together this Consultation, is showing just how deeply it is concerned to follow-up, listen to people and turn the recommendations into practice.

There have been reviews that my department has undertaken; there have been reviews that the Department of Justice has undertaken (this is all at the federal level); the Departments of Health and Welfare, Defence, Secretary of State, Indian and Northern Affairs, Employment and Immigration, have all reviewed the Task Force Report and its implications for them. An interdepartmental committee consisting of each of these departments, has been struck and has met frequently to develop within the next eighteen months to two years, a federal policy in relation to the Task Force, and a federal policy in relation to victims. We recognize that this goes beyond the Justice Department. We are talking about changing attitudes and the approach of government and this is indicative of the range of things that need to be done.

We have also gone for more resources – there is only a limited amount you can do if you don't have the resources to do it. We are most concerned that even in this time of restraint, and I think that the system has been clever to recognize this – this is an area that you don't restrain. Two or three weeks ago, Cabinet gave approval for a two-year package of approximately five million dollars for federal initiatives. You have to understand that there is a limit to how many services the federal government provides because it isn't in the business of providing basic services. But it is in the business of experimentation and demonstration, research and evaluation, acting as a catalyst, and trying to encourage people to bring together information from all the provinces so that we can learn from each other. That's what the money has been brought together for. In my particular department, quite a lot of energy and time will be put into a Victim Resource Centre, which has already started, and which we are building up. Part of the work of the interdepartmental committee on victims will be to decide where the Victim Resource Centre will finally be located – will it be operated by the federal government, by the provinces, or by a private organization? At the moment, we are getting the thing moving. The Centre includes a computerized information base, with information about victim services groups, for individuals and for anyone who wants to get information, because that's one of the great areas of need.

In addition, money has been allocated to the Solicitor General's department for police training, RCMP training and sensitization, to get people more involved, and to foster greater understanding of victim concerns.

Funds have also been allocated for research and evaluation and for police-based victim assistance demonstration projects. Also, over the last two years, we have tried to get a better understanding of why people report crimes, why they feel frustrated with the justice system, what they think ought to come out of the justice system, how the system has treated them, what sort of crimes have been committed against them and so forth. A whole series of questions have been examined under the victimization

survey carried out in 1982. Over 60,000 people were interviewed in seven urban centres across Canada. We recognize, of course, that we have a problem in that we haven't dealt at the same level with rural victims as we have with urban victims, and that the information shows that only about ten percent of rapes are reported to the police. Why aren't they reported? What is it that the system can do to make it more likely that people will report crime? Why do people not report robberies? What is so wrong with the justice system that people don't even bother to report serious crimes? If you look at the results of the victimization survey, you find something like only 40 percent of serious crimes are reported to the police. What does that mean? What does that mean for the justice system? It is very important I think, for us to understand that, and we are also going to have to understand how victims were treated by the justice system, how frightened they were, how frightened they've become, and so on. That is where the money is going, as far as the federal Solicitor General is concerned. The federal Department of Justice is allocating money to deal with the court system, with demonstration projects, research and evaluation as to what is going on in the courts, and with funding for court-based programs.

Third, the Department of Health and Welfare also received funds, to help in the area of trauma, to look at what happens following violent crime and how the traumatic effects can be dealt with. In the last year or so, there has been a realization that longer term traumatic and psychological effects on victims were not given quite enough emphasis in the Task Force Report, and that's part of the job which is going on now.

As well, there is a new working group being set up, as mentioned by Miss Wychowanec, which I co-chair. The other co-chairperson, from British Columbia is Linda Light, who has been given responsibility for the victim program in B.C. This new federal-provincial working group has had one meeting and is starting to look at six main areas. The first one is funding – the whole question of how to fund victim services, projects and programs. Gordon Walker mentioned this morning the fine surtax, one of the methods which he supports for funding victim services. That is going to be one of the proposals, and clearly Ontario is going ahead with action in this area. The Federal government may wish to follow, as may other provinces. That is one of the proposals for improving funds for victims but it is not the only proposal. We are saying that the funding area is one of the most important. Another important area is the area of information. The third is criminal injuries compensation. The fourth area has to do with special programs for special types of victims. The fifth relates to general improvements of the justice system in relation to victims, and the sixth area involves victims' self-help groups. How do you involve the many people who are here today, with the "bureaucrats" – how do you get a better coming together of information resources?



In some areas, we have already started. Legislation has been proposed and Bill C-19, which deals with victim impact statements in courts, raises the question of how much further the role of the victim might be extended. That is one of the items which is up for discussion in the new working group. On the question of restitution, Bill C-19 encourages restitution, but as far as I can tell, stops short at insisting that the courts demand restitution if it is possible. The areas of restitution and compensation, both by the offender and by the state are going to be considered over the next 18 months by the working group, particularly the question of how you involve the offender in paying for those crimes, either paying the victim directly or paying society in restitution-type damages.

I shall simply sum up by saying that my impression is that we are committed to helping the movement towards justice for victims, enriching it if we possibly can, encouraging it whenever that seems to be the right place to put our energies. Energy is being directed into public information, into program support, into legislation and crime prevention, into training, research and evaluation. We need to know which of these programs work and which ones don't, which programs seem to meet demand and which ones don't. Clearly, if you can stop crimes from taking place, or if you can reduce them, then that's the ounce of prevention which is better than the pound of cure. Our department is trying to have a major impact on crime prevention practices. Last year, you may remember that there was a Crime Prevention Week, but you may not be aware of the amount of extra resources that went into crime prevention practices. The same time that we went to Cabinet for more resources for victim justice we also went to Cabinet for more resources for crime prevention. And the dual idea of crime prevention/victim assistance is what we are trying to promote through greater community involvement in both aspects. That, I believe, is the direction that we are taking over the next two years.

I am extremely grateful for this opportunity to learn about what other people are thinking, which directions they think we ought to be taking, and how we can, in fact, improve on the present proposals so that the system is significantly more just and more effective, two years from today.

Thank you.

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#### STEPHANIE WYCHOWANEC

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Thank you, Chris, for that overview of the Task Force Report and recommendations and also for giving us some idea of the response, particularly on the federal government level, to those recommendations. We are certainly encouraged by those, and as we've just said, we are looking forward to some more recommendations from this Consultation today.

Our second speaker is Don Sullivan. Don was just an average law-abiding citizen until tragedy struck his family. He was the father of a young woman who was brutally slain in 1981. As a result of that dreadful

experience, Don has taken up the cause of victims of violence and has become recognized as Canada's spokesman for victims. His story formed the basis of a book written by Jerry Amernic entitled, *Victims – Orphans of Justice*. Don is Executive Director of Canadian Crime Victims Advocates and he was the founding President of a self-help group, Victims of Violence. Don Sullivan –

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### DON SULLIVAN

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Thank you.

Right off the bat I am not going to pull any punches. I'll tell you where I am coming from. I am the parent of a murdered child, but according to the Government of Canada's Justice Minister, I and any other parent are not victims. I have news for him and the federal government.

Some of you may be angered and upset by what you have heard and will hear today and in the next two days. This is progress for us victims. It will be a reaction. This, in itself, will be good for us. We are too used to professional blandism, self-congratulatory statements, mutual admiration societies, that have so far posed and passed as those concerned for victims' rights, victims' need, victims' services. We have heard a lot about this from the recent Federal/Provincial Task Force. Where were the victims? Non-victims met in private behind closed doors deciding what is needed for victims. Briefs were submitted. We were asked to submit briefs. But we were never asked to speak in public. Prior to now this has been, in my opinion, how we were seen. A means of prosecution – that's it.

Prior to 1980, who spoke for us? Who listened to us? Who *really* listened to us? Who actually thought of our problems and needs? There were a few, and fortunately many of them are here today. We victims really were the "orphans of justice". Then, something happened. The Harrison family of Scarborough, parents of Janie, the Sullivan family of Ajax, parents of Pam, reached out to each other. Result – Victims of Violence. In British Columbia the same thing happened – result – Citizens United for Safety and Justice. Parents of children who were murdered by drunk drivers formed Mothers Against Drunk Drivers. Families and concerned people in south-west Ontario were sick of the crimes against children. Citizens Concerned with Crime against Children was formed. We became militant. We became loud. We demanded our place in the system. We won't stop till we get it. We have not hesitated to let one and all know that we were and still are dissatisfied with the treatment that we have been accorded by those who have administered the system, the same system into which all our working lives we have paid tax dollars. The one time we turn to it for help – nothing; we're ignored, let down, dropped.

Many refer to people like us as lobbyists. We prefer to call ourselves



activists and advocates. We actually advocate changes. Why do we need legislated victims' rights? In the four workshops, you are going to hear more horror stories, just like the ones you have heard so far. What happened to my family has been called by many, an example of the entire system breaking down – the federal government, the provincial government, the police, the courts, my church and the social services.

In 1977 a person was convicted of committing firearms offences and given probation under the provision that he completely abstain from any alcoholic beverages. The county court judge stated that liquor contributed to his committing crimes. This person was rearrested in 1978 and sentenced to 42 months in prison for committing numerous crimes, again while drinking. While in prison, he joined AA. He was given day parole in May of 1980. This was cancelled in June, after he committed an assault. Again, according to a prison guard, he had been drinking. But time marched on, that 28 months came, two-thirds of his time, and out he came, on mandatory supervision release. On October 10th, he was on the streets. Evidence given in the Supreme Court of Ontario in December 1981, showed that every night he was out, in thirteen days, he was drinking. On the night he committed his last ultimate crime, the crime that caused me to be here, he was given numerous rum and cokes by his parents. He left the house in a rage which was normal for this person, as it came out in the court, whenever he drank. He walked up the street, saw my daughter limping home, (she had been in a car accident not too long before), he accosted her from behind, a complete stranger, held a knife to my daughter's throat, and I became the parent of a murdered child. The case management team, who spend 25 percent of the Correctional Services Canada budget, did not see fit to put a conditional release on this person in terms of no alcohol. A county court judge thought his release should be conditional. The probation officers thought it should be conditional, but not Correctional Services Canada.

When he was arrested four days later, the police told me they had received no telex regarding his release. As an ex-policeman, I knew something was wrong. I knew the rules and regulations. The OPP told me they hadn't sent a telex. Correctional Services Canada offices in Scarborough said "We haven't sent one". I informed my MP, Scott Fenell, about this. He asked the same people. He was told the same thing. He asked Solicitor General Kaplan why no telex was sent. On December 22, a letter came that changed my life – completely. Mr. Kaplan stated, after a thorough and complete investigation, that the incident in question had been investigated, that a telex message was sent, and that there was no past history of violent behaviour on the part of Mark Stephen Shannon. I had been lied to by somebody. Do I believe the police from three police departments? Do I believe Correctional Services Canada? Do I believe the Solicitor General of Canada or whoever wrote that letter? That would be an abdication of ministerial responsibility, having somebody sign your

name to a letter. I forced, I guess, what is the first victims' right – an Inspector General's investigation into the facts surrounding the release of the person who murdered my daughter. I will come back to that.

The local police never told us that our daughter had been raped. They promised me they would. We suspected it. I had three other daughters at home, a wife, grandparents, the really forgotten victims of a crime. We were watching TV four nights later, waiting to go to the funeral parlour when we were finally allowed to have our daughter's body back. There it is. National TV. Some big hero of an inspector telling everybody how my daughter was raped. Try picking your daughters and your wife up off the floor and calling doctors while this is going on around you. One week later, a week after my daughter's burial, the police told me, phoned me at home at 7:30 in the morning, said they had seen my wife who was under a doctor's care, my 4'11" daughter Janice, my eight-year-old daughter Stephanie, carrying chain-saws and axes, and cutting down the signboard behind which my daughter's body was found. We were out of town that night, but I was informed that if I was not at that police station with all my family at 11 o'clock in the morning, I would be arrested. The father of a murdered child.

I was never told of any court dates, remands, preliminary trials until two days before the Supreme Court trial, fourteen months after the murder. I was never brought into the Crown Attorney's office. The Crown Attorney said to me on the second day of the trial, "Hello". I was never informed of colour pictures in court that I was going to see. I did not know how my daughter had died, really, until I sat in court and heard it.

On the night of the preliminary trial, my minister phoned me at home, and asked me if I had felt sorry for that young fellow. I was told I could not take Holy Communion with hate in my heart. My church turned me out.

In court, the defence lawyer moved for exclusion of myself and my brother from court because, "We were intimidating the murderer and influencing the jury by being there". We had never said a word. I was made to sit at the back of the courtroom with a police class and could not hear what was going on. I then demanded that I be given equal rights as the murderer's family. The police were talking to them every day. Poor Mrs. Shannon. Poor Mr. Shannon, and your poor son. He'd spent all his life in prison.

Two years after the murder we received criminal injuries compensation; one-third of our funeral expenses, 40 percent of my wife's documented wage losses. We could find no social service agencies that would or could help us. Lord, we asked for psychiatric help.

Oh yes, the Inspector General's investigation. This was started in May 1982 and finished in August 1982. I, the father of the murdered child, who forced the investigation, cannot see the report. Our member of

parliament cannot see the report. My lawyer, David Kilgour from Edmonton cannot see the report. On September 1st, 1983, we asked the chairman of the National Parole Board, William Outerbridge, and the then Inspector General of Canada, Allan Redshaw, "Why can't we see the report?" They said it was a Cabinet document. Good-bye.

We did find out though, that no telex was ever sent, that no written notification was sent from Solicitor General Kaplan's office. Why? The Solicitor General's staff was on strike at the time, thus no telexes were sent for ten days. I cannot find out why a letter from the Solicitor General of Canada contained lies to me and my MP; why the case management team did not follow a judge's directives and place a conditional on the mandatory supervision release; why the Solicitor General of Canada, in December 1980, did not know that his own staff had been on strike three months earlier.

I may never know the full extent of negligence caused by omission that was done to my family. I know I lost a daughter, but until the day I die I will firmly believe that bureaucratic indifference and small "I" liberal social workers' ideals caused my daughter to die needlessly. Solicitor General Kaplan has steadfastly refused to meet me.

This story is bad enough, but the latest I've heard – in Niagara Falls, Ontario, a family contacted the authorities after the trial of the murderer of their daughter. They wanted their daughter's personal belongings back. A police officer brought a cardboard box to their home and gave it to them. When the parents opened the box they found it contained the body bag from the coroner, the official autopsy of the dead daughter's body on the slab, blood, earth, and soil samples and the murderer's clothing. You hear other stories, you hear of fathers who have been sued, subpoenaed to court, you hear of how parents of murdered children are the defendants in law suits and the murderer is the plaintiff. You'll hear of these in the workshops today. You are going to hear how a father was subpoenaed to court and excluded so he could not hear the trial of his daughter's murderer. You will hear that in one of the workshops today.

What rights and services *do* we need? The police must be trained in how to approach us. They must be sensitized to us. This could easily be done by having victims attend all police academies at their own expenses, because victims have paid everything out of their own pockets so far to form their groups, and we don't ask for money. We don't want it from any government. We will explain to the police who we are, what we are, where we are coming from, how we feel. The police must know that the initial contact between the police and the victims sets the whole tone for the length of time that the victim is involved in the justice system. We automatically look up to that police officer, because he and we have just shared a horrible experience, and thus a kind of bond has formed. A word of caution to policemen; at the initial contact of notification, never, never start questioning the victim's survivors. This may cause, and in

fact has caused, another victim to die. The clergy must also be trained and talked to by victims. They must realize that their God is ours also. We need our faith because we have alien feelings of hate, vengeance, frustration and guilt. Do not turn away from us. Do not refuse us Holy Communion because we cannot forgive or cannot turn the other cheek. Let us and our God handle this.

Compensation may be the most contentious issue that we will hear today in any of the workshops. It is not fair to expect the over-burdened taxpayer to dig deeper. They are already paying over \$4 billion (in 1982) to support the criminal justice system. But in this workshop, you must carefully weigh the following – in Ontario in 1982 there were 57,046 crimes of violence, 1250 applications for criminal injuries compensation were processed, \$2.5 million in awards were granted. This represents only 2.5 percent of the total of violent crimes. We victims are all in accord and agreement that one of our main stated goals is having every victim have full access to the Criminal Injuries Compensation Board if they need it. If we are successful in this, then is it not fair to project that compensation could conceivably cost us in Ontario over 90 million dollars a year, if only 2½ percent of us are costing 2.5 million? If so, ways must be found to raise such funds. Many, such as myself, favour an assessment on offences. As Justice Secretary Walker has said, this could raise possibly \$20 million, but if our goals are to be met this won't be enough. But what about redistribution? It costs every taxpayer \$320 to support the justice system. Of this, 32 cents goes to victims. If we lowered our share to the justice system by three and one-eighth percent, or \$9.60 a taxpayer, this would raise the contribution to victims by 3,000 percent, \$70 million would meet all needs of every victims' groups, including compensation.

There is also another avenue. Last year in Ontario one criminal fine totalled over \$200 million. Should all such fines go to the victims? But something must be done. Our Criminal Injuries Compensation Board must be changed. An award of \$500 a month made seven years ago to a mother of two children in east-end Toronto is of very little use when they are losing their home today and when they can't get social services because they are drawing this pension. Is it fair for us to ask a funeral parlour director to wait two or three years to be paid? We can't carry this guilt on us, we have to pay it, it is inborn – I know we went through it in our family. I advise everybody to get last Saturday's Toronto Star and read about the Oaks family. We have been working with this family. I was sick and mad when I read a statement by the Chairman of that particular hearing. Whenever the Criminal Injuries Compensation Board of Ontario is criticized, their thin skins show up. If they cannot stand being criticized, then they should resign from their jobs. Pain and suffering from mental anguish must be a recognized damage. Is it any wonder



that some states, and prime examples are as near as Arizona and New Mexico, have given the compensation board over to the victims to run?

Our justice system must accommodate crime victims. There should be victim/witness coordinators in each and every Crown's office, someone who can arrange dates for remands. Is it only the defence lawyer's golf game and squash dates that are important? How about the victims and the witnesses? Maybe we cannot afford to go to court that day. Maybe we need transportation, or babysitters. Some of us have lost our jobs by attending trials, but we must go.

The fourth workshop will be on violence prevention. Well, I know we'll have a lot to say about that. We victims have lost our faith in the National Parole Board in Canada. Section 15 of the Parole Act on mandatory supervision, must be amended. No one should automatically be let out of prison before their term is served. The public will be better served if they are kept in as long as possible. Better that than more violence being committed on the streets. The National Parole Board should not be allowed to consider pre-release of any violent offender. Let them deal with non-violent people. Let a judicial review board hear applications for violent people. A judge put him in – a judge should let him out. Let the offender prove to the judge that he is rehabilitated. Why must we continue to destroy our faith in the courts by circumventing them with parole board thinking? Their track record is bad. The National Parole Board in fact plays Russian roulette with violent offenders. They admit they cannot predict violence. We have heard the case referred to in Montreal – a murderer – we have all read about it in the papers. A four time murderer – out he goes into a lunchroom. We have ten documented cases so far since the first of the year of the same thing happening – in British Columbia, Winnipeg, Calgary, Edmonton, Toronto. It is not rare – it is very common. We are never surprised when it happens.

To sum up our needs for services, they must be of greater concern. This is where I differ from most people who have spoken today. We do not want equal rights as the offender, we want greater, better rights. We are far more important. We have heard a lot about the words "dignity" and "compassion" and "understanding". This will probably be the hardest thing for a victim to win, because I fully expect in two days, this conference will be over, people will scatter back, and it will just continue on and on, and on and then we'll have another conference in another year and it will continue on and on. This seems to be the norm rather than the exception. Together, all of us in this room, and the many thousands that we represent, must make specific recommendations which can and must be acted on immediately and such legislative changes as we see fit.

This conference could lay the ground work for a truly national meeting of all victim groups and victim assistance groups. We victims are planning

our first national forum. We are not waiting for anybody else. You people had better get organized too, because we are going to have an awful lot of us – at last count, 125,000 members of victims organizations. People ask what right do we have to criticize. I buried the mistakes of the justice system of Canada. So have a lot of other people in this room. There is an old saying that my daughter, Pamela, often quoted: “There is no present or future, just the past repeating itself over and over again”. I take this personally to mean that there is nothing new under the sun. Several hundred years ago the justice system consisted of two people, the victim and the offender. The offender answered to the victim. The state has assumed responsibility for the offender, thus the state must answer to we the victims. This is our challenge to you. Can you meet it? Thank you.

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### STEPHANIE WYCHOWANEC

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Thank you, Don, very much for sharing your experience with us.

Our next speaker is Dr. Irvin Waller. Irvin Waller is a professor of Criminology at the University of Ottawa. He is the author of numerous publications dealing with the subject of victim assistance and justice. In 1981 he chaired a conference in Toronto that led to the establishment of the Task Force on Justice for Victims of which we have heard today. Professor Waller, in addition to his teaching duties, is director of the United States National Organization of Victim Assistance, often referred to as NOVA and he is also a member of the executive committee of the World Society of Victimology. Professor Waller is also working with the World Federation for Mental Health on a proposed United Nations Declaration on Crime Victims. Needless to say, Professor Waller is recognized as one of Canada's leading experts on victims. Professor Waller, please.

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### IRVIN WALLER

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I am going to be relatively brief.

You have heard from quite a number of people who I think have really made us feel what it's like to be a victim of crime. What I am going to do is just remind you of why the victims feel some of those desires for change. I am going to tell you something about what is going on in some other countries that we in Ontario could be using as models to make our system of justice and our social services here the best in the world.

The definition that I want to give you is the definition of who is a victim of violent crime. We heard Helen Collum this morning remind us that a victim of violent crime is the victim of an intentional and arbitrary act that denies the existence of another person. They may kill that other



person. They may wound that other person and they threaten the security of that other person. What she didn't tell us, and I think this is one of the most important lessons for those of us who talk about justice to grasp, is that the system of justice that we have inherited from the nineteenth century in Ontario and in Canada generally is also a system that denies the existence of crime victims. It doesn't do it arbitrarily and intentionally like the offender does. It does it systematically and objectively. It was planned to be a system that denied the existence of crime victims. Because they were too angry, as Nietzsche said, "they were not going to be allowed to participate in the decisions of justice". That exclusion, that denial, is the reason why anger and despair fester, and until we begin to face that anger and begin to find ways of working with victims to help them build their lives, we are going to have a lot of angry, festering victims who have a lot of difficulty in remaking their lives after a violent criminal act.

Other countries have realized some of those needs. There aren't any countries, however, that have an ideal system that we can just import into Ontario, because our traditions are different. But there are many countries that have found ways of helping victims, of recognizing their needs. Recognizing their needs is what is so important. Recognition was mentioned quite a number of times this morning, both by Gordon Walker and by the victims themselves. It is recognizing, listening, hearing, trying to do something to support victims that is probably the most major thing the victims are looking for.

There are four items that I would like to tell you about that are going on in other countries. I am going to start with the United States, not because it is necessarily the best system to look at, but it does have, amongst its many disasters, some good ideas from which we can learn. I think probably the most exciting thing going on in the United States is not new legislation and it is not new money for victim assistance programs – it's their guidelines and training. In 1983 the U.S. Attorney General issued some guidelines. He issued guidelines to police officers and legal personnel, the people who have been structured in our system to deny the existence of crime victims. They have been told by their Attorney General how they can recognize and respect crime victims.

The guidelines state that police officers are not just to take information from witnesses and use them as a tool of evidence. They state that police officers are to try to assist the victim in the crisis, that they are not supposed to be a psychiatrist or a social worker, but they are supposed to be sensitive to the needs of victims. They state that they are supposed to refer the victim to community helping agencies where they exist. They state that they are supposed to refer the victim to the compensation board, and even help them to start the process of applying for compensation.

We have heard today that in Ontario 1 in 55 victims who are eligible for compensation actually get compensation. It is actually only 1 in 55

who apply. Why don't those other ones apply? Because police agencies have not seen it yet as a priority to inform victims of the availability of compensation. It doesn't cost very much to a police officer to give out that card. All those police officers need is a directive or encouragement from their leaders, from their chiefs, that this is a priority. The U.S. has done that and I think we can look at those guidelines and we can also look at those guidelines for prosecutors. By the way, police and prosecutors are probably almost as strong advocates for crime victims as many of the people we heard speaking today. The problem is that we as a society have not said that crime victims are a priority. We've not said that it should be part of our functions, we've not recognized that helping victims can be very good public relations for our police agencies, very good public relations for prosecutors and much more important, it can be an act of respect for human dignity.

In the U.S. they have not only issued guidelines but they have also funded training programs for police officers. Fairly obvious, and something we could be doing here. They have funded training programs for prosecutors. Prosecutors should perceive the victim as more than simply a tool of evidence. They have also organized training programs for judges. They have brought together two judges from every state in the Union for a one-week course on crime victims. Just as we are doing today, they heard from crime victims, they heard from experts and advocates, and then they talked amongst themselves. They came up with guidelines – guidelines that related to how victims were going to be better informed, guidelines on how restitution would be considered, guidelines on the extent to which the views and opinions of victims should be considered when bail or sentencing or other judicial decisions were being made. So, the first item that I think we can look at in Ontario, are guidelines to develop training programs that will be effective with our legal community, with our police officers, with our prosecutors, with our judges.

A second item that I think we can learn from are the comprehensive victim service programs that exist in 18 states in the United States. By the way, they are not limited to the United States. The French Task Force also issued recommendations that there should be funding for local victim assistance centres. The British All Party Parliamentary Committee that has studied everything from parole, to prison, to sentencing, to police action also recently recommended comprehensive funding for victim assistance centres. These are centres to which the police could be referring victims, where they would get some understanding, where they would get some practical support and where they would get assistance in obtaining whatever sorts of services are available in that community.

Now, we don't need to look to the United States, or France or England to find models of victim assistance centres. We have many very good ones here. We have Edmonton. We have Calgary. We have the programs with the Ottawa police and with many other departments. Twenty-four

out of 25 communities in Canada do not have those projects, and I think that a priority need is to set up the funding programs, whether it be through penalty assessment, or whether it be through general revenue or a combination of both, to make sure that those victim assistance centres exist in every community. By the way, those victim assistance centres can also help educate and train and motivate people who work in the justice system or who work in the community, to help them to be more sensitive to the needs of crime victims. So my second item is funding for comprehensive services.

My third item is a system which many feel could not be adopted in Canada. It's the French system of *Partie Civile* – Civil Party. This system is basically one in which the victim is given access to legal aid and is able to be part of the process at charge, at bail, during the trial, sentencing, and more recently, parole. The Civil Party system is one that gives victims an option to decide that they want to participate. It's a system that gives victims a voice in the process. It's a system that has existed for more than a century and it's a system than I think we should be studying very seriously in Canada, and in Ontario. It's a system that actually follows the principles that the federal government enunciated for revision of the Criminal Code, that a purpose of revision of the Criminal Code should be reconciliation – reconciliation between the victim, the offender and the community. It didn't say it should be just offender and community. It said victim, offender and the community. And ultimately, the only way that we are going to have a justice system that reconciles the interests of victim, offender and community is if we give victims a right to have access to that process – not just information – not just being able to sit through trials – but a right to be able to ask questions and present their point of view. Not a right necessarily to decide sentence – nobody is arguing that victims should be the sentencing authority. Of course, we want to have an independent objective agent – a judge – who decides that. But that judge must have heard from the major parties to a trial – a prosecutor who speaks for the state, for the community – a defence counsel who speaks for the offender – and a person who speaks for the victim. That system in France works. Not every victim is happy, but at least it's a process that is leading towards that reconciliation between victim, offender and community.

So, my third item for us to think about is some bringing together of the civil and criminal process in Canada. In our criminal law it is heresy to say that somebody who has had their child murdered should think that that was a crime against them. It's heresy to think that somebody who has been held up at gun-point should think that that was a crime against them. Of course, it's a crime against the victim; and of course the state has a role in those crimes, but it is a crime against both, and we have to find a justice system that recognizes what is obvious to most of us. People used to say the world was flat. The system used to say the world was

flat. Somebody came along and said it's round. Today, people who say that a crime is just a crime against the state are saying that the world is flat; it is not, it is round; and it is a crime against human beings and they have very, very personal interests at stake when decisions are being taken about that offender. So my third item is to think about a system that gives the victim a greater role in the justice process.

The fourth item I would like to leave with you is the question of how are we going to see changes brought about in the justice system and in the social services system, because we are not just talking about justice here. A transformation in attitudes to crime victims takes a lot more than a conference like this, a conference in '81 or a conference two years from now. It takes a lot more than training sessions. It takes some bureaucracy, whose existence depends on trying to make progress for crime victims. When the Women's Rights Movement was looking for radical change or transformation across a broad area of society, they did not just hold conferences and retrain people working in various parts of the bureaucracy. They lobbied to get advisory councils established. We may say they haven't been as successful as some people would like, but they lobbied to get those established. If we look at the recommendations in France; if we look at the U.S. federal recommendations; if we look at a whole range of states in the United States, one of the things they have done is establish a Crime Victim/Witness Assistance Board – or a Crime Victims Board. Perhaps the best known one is New York State, where they took the Crime Victim Compensation Board – not by the way the “Criminal Injuries Compensation Board” – they dropped the word “Compensation” and they called it the Crime Victims Board. They said your job is to hand out compensation, to provide money for assistance programs and to be an advocate, to propose bills so that we can get legislative progress for crime victims. That type of model is something that I think we should all be seriously considering.

It's wonderful that the Chiefs of Police of Canada have established as a major priority, the issue of crime victims. The Canadian Council on Social Development has done a lot of work on crime victims. Then one begins to gasp . . . there aren't many other organizations that have decided that crime victims are a priority. And if we are going to see government changed, it can't just be changed by people who are outside of government. It has to be people inside government whose sole job is to try and bring about a change in attitude, a change in services, and ultimately the change in legislation that is going to recognize crime victims. Thank you.

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## STEPHANIE WYCHOWANEC

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Thank you, Irvin, for sharing with us the responses to victims' needs in the United States and in other countries. I am sure that you have focused our minds on the alternatives that are being used elsewhere and perhaps may be used here in Ontario. Ladies and gentlemen, we will continue with our workshop groups in the afternoon.

Thank you very much.





Delegates attended from victims' organizations, community agencies and from every sector of the justice field.

## CHAPTER 5

# Second Keynote Address

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SPEAKER (MAY 7, 1984 – 6:30 P.M.)

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• DR. MARLENE YOUNG

EXECUTIVE DIRECTOR, N.O.V.A., WASHINGTON, D.C.

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*Review of the growth of victims' rights and services in the United States . . . the need to view financial, physical and emotional injury from the victim's perspective . . . primary and secondary injuries . . . victim stigmatization . . . the role of the victim in the criminal justice system . . . victim service phases – emergency response, stabilization, resource mobilization, post-arrest, pre-court appearance, court appearance, sentencing and post-sentence . . . review and description of victims' rights.*

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STEPHANIE WYCHOWANEC

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Ladies and Gentlemen.

When we became aware that Dr. Marlene Young might be a participant in this Consultation, there was an immediate and unanimous agreement on our choice for our guest speaker tonight. However, we knew that Dr. Young's schedule is very busy, and we would be giving very short notice, so we were prepared for a polite "no" to our invitation. We were therefore very delighted when Dr. Young agreed to come to Toronto and speak to us this evening. Just as an aside, and as an indication of how busy Dr. Young is, I understand that she arrived in Toronto from Pittsburg at about 5:30 this afternoon, so she has made great speed in getting to us this evening. And I understand that you are leaving as shortly again, and going back to Washington. When I tell you a little bit about Dr. Young, I think you will understand why she is in such demand.

Marlene Young has been actively involved in the Victim Justice Movement since early 1970. I think it is fair to say that Dr. Young is one of the founders and she now enjoys a national reputation in the United States as a victim justice researcher, administrator and advocate. Dr. Young is currently the Executive Director of NOVA, the National Organization for Victims Assistance. She was in fact one of the founders of NOVA, and NOVA is recognized as the pioneer of radical reform with respect to both legislation and service programs for crime victims in the United States. Victim networks are now established in every major state in the United States and many of those states have legislated a Victims Bill of Rights. NOVA also provides major training packages for police forces, prosecutors and community workers.

This is not the first time that Dr. Young has attended a conference in Toronto. In October 1981 there was a joint conference of NOVA and Canadian organizations interested in victim justice. I believe that conference was NOVA's seventh annual conference, and the first that had taken place outside of the United States.

Finally, a few personal facts about Dr. Young. In addition to her NOVA activities she has been a key witness before the U.S. President's Task Force on Victims of Crime, and before other congressional committees on numerous occasions. She has a doctorate in both law and political science, and has twice been chosen the State of Oregon's Woman of the Year. Join me please in welcoming Dr. Marlene Young.

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#### DR. MARLENE YOUNG

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Thank you very much. I appreciate that gracious introduction. Sometimes however, I must say, that I do not recognize myself when I'm introduced.

I am absolutely delighted to be here in Toronto and to return to Canada. We became involved in crossing the border and talking and meeting with Canadians in 1980, when NOVA realized that there were people here who were interested in the field – I remember talking with Paul Sonnichsen about the idea of bringing a conference up here in 1981 – until now, when I have had the opportunity on a number of occasions to visit with various groups throughout Canada. I have been thrilled every time I have been able to come here. I think it's a glorious country and I am happy to be back, despite the fact that today has been somewhat hectic for me. I started out at 5:00 o'clock this morning trying to go to Philadelphia. I missed my train and managed to get there just in time to talk, then missed my plane to Toronto and managed to go through three or four different airports to arrive here at 5:30. So I feel that I may be just catching up all day, and hope you will bear with me while I try to catch up one more time in talking to you tonight.

There is another reason why I am happy to talk with you. This year, 1984, represents for the United States the end of the first decade in victim

services and victim rights. This is marked by the fact that in 1975 in the Philadelphia District Attorney's Office it was decided that it was time, not only to address victims in terms of incidental services, which they were doing with just a few services, but to proclaim victim rights as an issue for that office, as an issue for that state and eventually for the nation. It is with a great deal of pride that I can say that a decade later we have just completed a commemoration of National Victim Rights Week in April. That commemoration was marked by what I think is profound progress, not only for the decade, but since 1980 and 1981, when we had the privilege of being here as an organization and of having our annual conference here. After what has happened in the United States, I can only say that I look at it in wonder. In 1975 there were only a handful of victim compensation programs in the United States. Today, in our country, there are 39 such programs, and compensation also in the District of Columbia. We have not yet established compensation to the extent that you have in Canada, but I hope to see it established in the future in every jurisdiction in the United States.

I look back to 1975 – and I was just talking about the idea of victim input at sentencing, whether the victim had a right to have input – and I remember in 1975 talking to one of the people who has since become known as the Father of the Victim Impact Statement. He was our past president, Jim Rolland. He believed that yes, the victim should have input in sentencing. He devised what has become known as the Victim Impact Statement and implemented it for the first time in the county of Fresno, California. He was the chief probation officer, and he simply said, I think it is fair for both sides to have input. Today 21 states of the United States have the Victim Impact Statement as part of their criminal justice proceedings. I look back to 1975 in the United States and I see there were only a few programs which dealt with victim services, a few rape crisis services, and some family violence shelters. Today some 30 states fund domestic violence shelters, some 15 states fund rape crisis centres, and some 18 states provide victim witness services. I think we have made some progress.

This year, we have landmark legislation introduced in both the Senate and the House of Representatives in the United States Congress, that would provide – should it be passed – subsidies from the federal level for victim compensation and victim services throughout the United States. Every time I say that, when I think about our beginning, I actually get some chills, because I believe we are going to pass it this year, and I believe that we are going to start a whole new decade that will show even more progress, ten times what we have seen in the last decade.

Perhaps as important as that kind of funding and those kinds of subsidies, is the fact that the idea of victim rights was really just rhetoric and just a concept in 1975. Yet in 1980 some people sat down and started to think about what could be articulated as rights for victims, and decided

to translate that rhetoric into what we considered a sample bill of rights for victims. Since 1980 we now have 13 states (and according to Pennsylvania it will be 14 in two weeks), where bills of rights for victims have been legislated, and in 1982 in the Federal Congress the Witness/Victim Protection Act was passed, which guarantees fair standards to victims through the federal court system. So I am proud to be here today, to discuss with you what is happening.

As we talk across the border, and to each other as individuals, we know that while there is progress, and I think it is great, we have a long way to go in both of our countries. In Canada you may not have had the devastating problems in starting out as we had in the United States, and which we still have. But I think you are touched in part by a similar phenomenon. For the past 25 years we have been faced with the longest crime wave in the continent's history. There have been two other crime waves that have been documented since the beginning of our two countries. One took place in the late 1800's and the other just before the depression. Neither one lasted more than about five years; and neither one was as violent or as heinous as the one that exists now. Beginning in 1960 we have seen a steady increase in crime in the United States, which has now risen to a point where daily we see 13,000 larcenies take place, 11,000 burglaries, 1400 children abused, 480 women raped, and 60 vehicular homicides. I certainly cannot say that I am proud of these statistics. For despite the fact that the Department of Justice in our country has recently released a study which would suggest that crime has declined, by 5 or 6 or 7 percent, depending on what you read, I do not believe that that kind of decline represents a statistical impact on what that crime wave is. It certainly does not touch the real casualty of crime. Not those numbers on a newspaper page, not those figures that we read in books, not the percentages we can share, but the tragedies that exist behind every single one of those numbers. Every number that I just mentioned and every day that goes by in the United States, we don't see further statistics, we see more people whose lives have been shattered by crime. We see those lives changed forever.

I know that you had the privilege today of hearing some of those stories and some of the feelings of victims here in Canada. I share many of those feelings, having been a part of this issue for a decade. I think they were epitomized to me as we began National Victim Rights Week this year in a White House ceremony where our President honoured some victims for their service. The honouring I think was emblematic of the fact that victims have risen to a place in the United States justice system. The stories of these victims were the kinds of stories which I have heard and with which I have worked. In fact, those who were honoured were my friends. When we start to think of the casualties we have to go back to listening to them.

\* Bobby Romaro was one of those victims present that Friday before



Victims Rights Week. I have known Bobby since he became the victim of an assault. Bobby was in a car one night at a drive-in theatre in New Mexico. He was sitting there with his cousin, when an unknown assailant walked up and put a shotgun next to the window, blew his face away, then grabbed him and tore him out of the car, beat him and left him for dead. Bobby's state, New Mexico, had just passed a Victim Compensation Law. Their limit for victim compensation was \$12,000.00. Bobby has been through nine reconstructive surgeries. He just went back into surgery at the beginning of this month, May 1st; his bills are hundreds of thousands of dollars. What was more injurious to Bobby was the fact that he felt there should be some action taken to try to find his assailant. However, the response he received from the criminal justice system was that since he did not know who had committed the crime there was not enough evidence to try to find who his assailant was. So Bobby had to dig into his own pocket, and scan the state of New Mexico to try to get witnesses who would testify against his assailant. He did this with the help of family and friends. He found witnesses and he took his case to the prosecuting attorney in his jurisdiction. The prosecutor said, "Well, I can't really rely on those witnesses." And he refused to prosecute. Bobby told me about three months ago that he had reached the pits of despair. I said to him, as another friend of mine did, who had also been working with him in victim services, "You can't give up now, Bobby." Bobby went back out and he relocated the witnesses who had left after the prosecutor had refused to take the case. He found them again, and luckily in New Mexico there is a special way in which you can get an Attorney General involved in local cases. The case was presented to the Attorney General and it will go to trial next month, with the Attorney General prosecuting the case because he could not get local criminal justice people involved. That case does not represent pride or progress. It represents scandal.

I think of Betty Jane Spencer, another person who was honoured that Friday. Betty Jane lived in a county of Indiana. That county had not seen a murder in 50 years. It's a rural county. On Valentine's Day in 1977 – her husband had just left for work late at night, he worked in a radio station – Betty Jane's front door swung open and there stood a young man about the age of her eldest son with a shotgun, and her back door swung open and there was a young man there with a shotgun, about the age of her second son. Betty Jane had four sons. There were four assailants. They came into the house and ransacked it. Then they made Betty and her four sons lie down, and in a bloody rampage they killed the four sons and left Betty Jane for dead. Betty survived. I can't believe the courage that Betty has when she talks about the situation and about what went on afterwards. I don't know how any of us might gain the courage to survive the deaths of all of our sons. And the shock of having lived through the whole thing and knowing what happened. Her husband

still cannot talk about it and still does not know what happened. But Betty went through two trials. She went through the first trial when one of the young men was convicted. She went through a second trial and the second young man was convicted. The other two men finally decided to plead guilty, and so the trials were over and they went to prison.

This Christmas Betty Jane thought that she was finally getting her life together: she knew she was, because she made four gingerbread homes and took them to four little children. She said that she felt proud, but that for her it always seemed as though the buck came too late. In the second week of January she opened up the newspaper to read that two of the assailants had been granted new trials. This was based on a rule that whether the judge commits harmless or non-harmless error, the assailants can be retried. So Betty now faces, once again, the ordeal of digging through her life to go through those trials. While I listened with outrage, Betty added that she decided she would do something. Once again she went to bat for the victim, not for her because it wouldn't do her any good. On March 31st a law was passed in Indiana which makes it impossible for people to get a new trial based on harmless error.

I am proud of Betty Jane and I am proud of Bobby, but I am not proud of our system that leaves those tragedies for the rest of us to deal with. I would like to spend a little time today talking with you about what I think constitutes those casualties of crime, and about the injuries that you have heard today from a slightly different perspective. I would also like to talk about what I think we have to do in terms of services and rights for victims in both of our countries if we are to stand up with pride as countries and societies.

Our organization has learned that victims can suffer three primary injuries: financial injury, physical injury, and emotional injury. It is easy to say this, and everybody would nod their head and say, yes, that sounds logical. I suggest however, that we don't always understand what those things mean. What is financial injury? We certainly will not find out if we look to our criminal justice system for a definition, because that system states that we can define crimes based on the financial loss which someone suffers. In our country a crime is a felony or a misdemeanor, depending on the amount of dollar loss. Or we say that vandalism isn't that important because it doesn't cause real injury to the victim. I would challenge those statements. I suggest that we have not looked at financial loss from the perspective of the victim.

We have to understand what vandalism can do to somebody, not in terms of their property, but in terms of their lives. I think of an elderly gentleman with whom I worked while I was working with elderly victims in Portland. He was a victim of vandalism. Some young kids rubbed axle grease across his entire porch. That sounds like a simple enough crime, certainly one which doesn't hurt anybody. The only problem was that when he walked out he slipped. He slipped right off the porch and broke

both legs and a hip. He ended up in a nursing home for the rest of his life. For him the financial loss meant something more. It meant a violation of his entire life.

Then I think of the common crime of burglary, which we tend to shrug off because, as many people tell me, we can insure against burglary. We can always take out a policy. I don't know what the policies are like in Canada, but I know what they are like in the United States. If you look at your insurance on your house, in the United States you will retrieve from an insurance claim after a burglary 10 to 15% of the financial replacement cost of the property you have lost. I don't know how many of you have the kind of income that can sustain that. I do know that it would be difficult for me. I think that you have to look even further, because in many cases it may not even be that kind of recovery cost; it may be that the things you have lost cannot be replaced. As one man said, his deceased wife's wedding ring meant more to him than anything else that the burglars could take, and this loss left him feeling like he had once again lost his wife.

That is the financial loss. If we think we can understand that, then I suggest that we still cannot understand physical loss. I don't think we understand what it means. I don't know that we can. I look around here and I see you, and I don't think that any of us can understand what it would be like if we walked out onto the street and someone shot us and the next day we were confined to a wheelchair for the rest of our lives. I don't think that I can understand that. It leaves me with shock, it leaves me with horror, and it leaves me with disbelief, even in thinking of it. It certainly makes me angry to think that it can happen to somebody. I don't know that I would have the courage to face a life so changed, so mutilated.

I think of Barbara Kaplan of Massachusetts, who was shot in the same incident which killed two of her co-workers. She was a psychiatric social worker, her friends were a psychologist and a psychiatrist. One of the clients came in one day and was angry at them and took a gun and shot them. The other two died, Barbara lived, and she said, "I felt really fortunate that I lived, but I also felt guilty that I lived." In that shooting her eye had been blown out and her face had been disfigured. I talked with her about that, and she said, "You know, it wasn't the pain or the suffering that really made me upset in the long run. Before the shooting I was a bright young woman. I had a career, I was competent, I was a new wife, and I even thought that I was pretty. Now I cannot look into the mirror. I cannot even face a day, without thinking about my image in a different way. I haven't been able to get past thinking of myself as the woman without an eye." I do not know how one faces that. But I do know that we have to try to understand it as physical injury, and try to understand what it means to the victim.

I know that today you have heard from people who have become victims

because they have loved ones who have been murdered. I say that they have become victims and I know that you have heard from them as victims, but many times I have been ashamed of the way we treat these victims in the United States, due to the fact that we have not recognized that they are victims. I see it happen every day in my organization. We get calls from the media in our country. Those of you who have worked in victim services know that when the media want to get involved in the issue, they want to hear from the victim. They want to interview a victim. That is perfectly fine. Victims speak the best for victims. But we have had people tell us, "Well, we want a 'real' victim. We don't want someone who has just had their daughter murdered, or son murdered, we want a 'real' victim." I cannot describe the outrage I feel in those moments. On a personal level I can tell you why I am outraged. It is because I am one of the most fearful and cowardly people in the entire world. I quake at my own shadow, and I think that in any circumstance where someone would try to attack or hurt me, I would be scared to death. I can tell you however, with absolute determination and sureness, that the one time when I have the most courage in the world is when my family and my loved ones are challenged or threatened. That is because they mean more to me than life itself. I do not know how any society, or any justice system can look at people who have lost something that means more to them than life itself, and say that they are not victims. And yet, that happens, and that is physical injury, the ultimate injury.

Both of those injuries allude to what you have heard today and what I am talking about, which is emotional trauma and hurt. The shock, the disbelief, the denial of crime, coupled with anger, frustration and sometimes even guilt, even confusion. All of that means turmoil for days, months, maybe years. If you add to those three primary injuries what I call the "second assault", and what others have termed the "second injury", then I suggest we have to understand it from the victim's perspective. In addition to those primary injuries we blame the victims, we isolate the victims, we stigmatize the victims, and we berate them with an array of injustices. We don't allow them to speak, we exclude them from the system, and we exclude them from our lives. Parents of Murdered Children in the United States suggest that as many as 80 to 90% of those families complain that they have lost most of their friends. Because no one wants to talk to them. When I talk with victims they often tell me, "You are the first person who ever asked me how I felt." One couple I know, who are very dear to me, said, "Marlene, we want to thank you for spending an evening with us. Most of our friends don't want to talk with us for an evening, because we want to talk about our son, and no one wants to hear about him." I think that that is the second injury that society inflicts.

In addition to the isolation we blame and stigmatize victims. We say, as I have heard, "Well, you were burglarized, why didn't you have your



house locked up?", and we say even to those people whose loved ones have been murdered, "What were they doing that caused someone to want to murder them?" A few months ago a woman in Delaware, whose husband had just been murdered, told me what had happened, and then she begged me, "Don't tell anybody, please don't tell anybody at that conference, because they will all think it was his fault." People blame victims. We blame and stigmatize and then turn around and say that we have a "justice" system. It is appropriately named for the criminal, because it is he to whom we expect to dispense justice. But we do have a justice system. We say it is justice, and then we say, "No, you are not a party to this crime, you have no role here, you cannot be involved here, it is not your case." We add legal authority to the stigma and isolation that we perpetuate as a society, and I believe that we then become responsible for the grief and the casualty of the second injury. It is with that in mind, that I want to tell you what I think we can do, what we have to do, to once again establish an equilibrium in our system.

We think there are a number of ways to offer services and I would like to sketch them for you. I believe there are a number of things we have to establish as rights. In terms of services, we feel that victims have a right to services from the time the crime occurs, until after the sentence. When the crime occurs, there is a very discreet phase of service, what I call "emergency response". I say "discreet", because the very first person a victim contacts after a crime, should be a person who can help that victim. A person who can at least try to understand the shock of that moment, and who can calm the victim just a little, so that we can help them further. When someone calls the police, the operator/dispatcher should be trained to deal with crisis. They should know that crime means crisis. If the person they talk with is a crisis counsellor or on a crisis line, a family member, friend or loved one, they should know that crime means crisis. We should be teaching everybody – like we teach first aid – what I call "emotional first aid". I just said that often I had been the first person, in cases which had gone on for years, to ask a victim how they felt. We should be telling each other. When you hear that someone has been the victim of crime you have a responsibility. It is something that every single person in this room can do, which is to say, "How do you feel? I am sorry it happened. Is there anything I can do to help?" There may not be anything we can do, but I think we can ask the question, and I think we can listen. That is the first phase.

There is another phase. We call it "victim stabilization". This occurs a little after the crime, perhaps when the police officer arrives, or perhaps when someone else arrives at the scene. We think victims deserve to have someone trained to provide what we call "stabilization". For many crimes you will never expect things to go away after the first day or first night. No one expects that. For the more heinous, the more serious, the more violent kinds of crimes, the crisis and stress may go on for years. We



can expect however, in that first period of time, to be treated with dignity, to be given some chance to try to recover at least enough to remember what happened. We can expect that there be concern for people who stay alone. There can be concern for someone to be around to help the person after the crime, for some period of time.

This can help prepare him/her for a third stage of service, which we call "resource mobilization". This means trying to help the victim as a community. It means trying to help the victim over a long period of time recover – not to normal pre-crime functioning, as I have heard some counsellors say, I don't believe in that – but in trying to start a new life, not because they want to, but because they have to. We therefore have to figure out how we can help. In cases of vandalism and burglary, we can perhaps help fill out insurance forms. Those are the easy things. Maybe we can help repair property, maybe we can get some help for physical mutilation through therapy and through some assistance in getting the victim's life back together physically. Emotional health and assistance are long-term issues. I nevertheless believe these are services that all victims should get.

If we get involved in the criminal justice system, there are another five stages of service that we think should be automatic. The first is at post-arrest, and means involving the victim in charging decisions and bail decisions. Involving the victim in prosecution, consulting with them, asking them what they feel. At one time I sat down in a short period of study, it lasted about one year, to read some 5,396 police reports. You may wonder why I would want to do that. I also wondered after I got through with it. I was trying to study what kind of information appears on police records, because, at least in the United States, the prosecutor very often uses police reports in terms of charging. Relying on these reports involves two problems, unless you are talking with the victim as well, and unless your police are trained in talking with the victim: a) the police report is often drawn up at the most critical time of a crisis period, and victims cannot necessarily be expected to know everything or to remember everything at that crucial time; and b) I can guarantee you that in the United States, perhaps not here in Canada, some law enforcement officers do not write very good police reports. Talking with the police officer and the victim is therefore very important in charging decisions. In bail as well as in bonding, there are issues that suggest that it is essential for victims to be involved so that we know how to protect them.

Then we go into pre-court appearance, and court appearance, another two stages which involve a victim at every course. The victim should be involved if there is a plea bargain, consulted if there is an intention not to prosecute on the charges originally filed. The victim should be allowed to know what is going on, and should be treated as more than simply a bit of evidence. The victim should receive help in preparing their testimony and they should receive advice on how to present something in

court. The victims should be involved and informed as to what happens during the court process, and they should be provided assistance with transportation, child support, other kinds of services to allow them to provide good testimony when it is needed. A district attorney in the United States told me recently that he didn't get involved in victims services until relatively late, but it suddenly hit him like a ton of bricks. He said that we tell the victims that they have been victims of crime, but we don't even say that we are sorry. We say to them, "O.K., you have been a victim, and now consequently you are a piece of evidence in our case. Thank you very much for agreeing to be a piece of evidence in our case. Now let me tell you how else you are going to subsidize the system. You will subsidize the system by arranging your own transportation to court, you will subsidize it by taking days off from work, you will subsidize it by taking your time and your emotional energy to appear in court, you will subsidize it in any number of ways, and we will pat you on the back and we will say, thank you very much, and now you can go on your merry way." We don't offer them any kind of support or input. The district attorney asked me, "Why would anyone want to participate in that justice system?" He has changed his system to include those kinds of services.

We believe there should be more services after the court situation in the sentencing stage. The victims should have input, as I said earlier, in terms of victim impact statements. They should have a chance not only to write down, or have someone else write down, what injuries they suffered, they should also have an opportunity to say what happened to them for consideration in sentencing. They should have an opportunity and a mandate to have restitution wherever possible.

Then, in the post-sentence stage, the victim should have services which provide information and notification concerning release situations. Whether it be through parole, through escape, or through work-release. All of these services translate into what we consider to be the seven rights for victims. Allow me to suggest what they are and tell you where they are taking place, where they have been enacted in parts of the United States.

The first is what we call the victim's right to protection from intimidation and harm. A basic right. From the time the crime happens until afterwards, the victim should be protected from being intimidated and harrassed. In most jurisdictions in the United States, we don't have laws that do that very well. We do in some areas attempt to punish intimidation, but we don't usually punish harrassment, and in most jurisdictions we certainly do not punish attempted intimidation, which I find very ironic. Think about that. We will punish it or we will sanction it under the criminal justice system. We will deal with it as a crime if you are intimidated. What happens if you are intimidated? Who finds out about it? We don't know the scope of intimidation. What we find out about is attempted intimidation, and hence some of the more progressive jurisdictions are

starting to deal with the fact that attempted intimidation is going to be treated similarly to intimidation. These laws should be enforced.

Combined with the right of protection we feel that every bail decision should include a condition of bail or bond which guarantees that that person does not go back and pester the victim. In some cases it may even be important for the victim and the community to be protected as a whole. In front of our Presidential Task Force on Crime Victims, a victim from California told the story that she had been the rape victim of a person who had previously committed six rapes. He had been charged on six rapes and had been released on bail as the result of those six rapes, because in our country we cannot keep bail from somebody unless they are not likely to return to the jurisdiction. Well, in the aftermath one could say that one could have been sure that he would return to the jurisdiction because every time he was released on bail, he went back and raped someone. That was how the six counts were there, and the seventh time he had gone back to that community and raped somebody. I would be loath to interfere with the rights of the accused, but I think there is a point where our common sense must intervene in our understanding of what is equitable for the victim. This we think, articulates some of the issues about rights to protection.

The second right is the right to information and notification. I have talked about this in terms of services. I want to talk about it in terms of a right. We should not leave it up to individual prosecutors or judges, or any other member of the criminal justice system to decide, as a privilege, that victims are going to be allowed to receive information. We should not accept it as a privilege. It is our right to have information. It is our right to be notified in every stage of the criminal justice process, from the time of case investigation, to arrest, to pre-court or pre-trial disposition, to case dismissal, to what happened at the trial, and to be informed about what is happening.

This correlates with the third right – the right to counsel. The right to counsel is becoming quite an exciting right in the United States. Most people are beginning to agree that there should be some sort of emotional support for victims. I've mentioned this point in terms of services, and that is one kind of right to counsel.

Further we feel there is a right to prosecute. This is not in our basic common law background, and it is probably not here in Canada, but we feel that the victim has the right to consult with the prosecutor. There are now five jurisdictions which make it mandatory for the prosecutor to consult with the victim prior to taking a plea or dismissing a case. This is a beginning. We think the right to participation at sentencing is another part of that participatory right to counsel. There are some people who would take it one step further. This may not seem as radical to you in Canada as it seems in some parts of the United States, but some victims are suggesting that perhaps there should be a right to prosecute. Bobby

Romero may be thinking about that now. There are cases in our country where prosecutors with prosecutorial discretion do manage to dismiss cases that perhaps should not be dismissed. In fact, in the state of Nebraska, where there are part-time prosecutors, paid partly by the state and partly through their civil practice, there was a very specific case – a case of murder. It seems that the elements of murder were there, but in talking with the prosecuting attorney, it became very clear why he decided to go for a voluntary manslaughter charge. He had a big civil case that was going on at that time. The state only paid him \$7,000, and his practice was made up of civil cases. So he went for voluntary manslaughter and with 90 days from the judge, the person walked out of the courtroom. Those victims felt something like having a right to prosecute. Interestingly enough, while we do not suggest it as the ideal, there are some people in the United States who are re-examining the common law right to private prosecution. We have 34 states with some sort of common law right to private prosecution and in the last year at least 6 or 7 of these states have been actively involved. They have a right to prosecute. There are other prosecutors who suggest that that is not the way to solve the problem. I am not saying that it is, but I suggest that there should be some appeal so that when a prosecution is denied, the victim has a method of recourse. That is a right of counsel.

We have a right to reparations. I know you have a Victim Compensation Board in Canada, and we have a number of them in the United States. I think in the United States we need to re-examine our Compensation Board considerably, because I don't think that we provide for most victims. We certainly exclude, in most jurisdictions, victims of family violence and we exclude many as a result of other kinds of issues, such as a means test and a deductible. We have to clean up our compensation act. I would suggest to you that you look at your compensation program and see whether it does reach out to victims of crime across the board – to see how you can expand its coverage and its benefits. I would suggest as well that restitution which I know in Canada has been used more than in the United States, must be used across the board in every case. I think restitution should be ordered in every sentencing procedure and be part of the sentencing process. The victim should have input concerning that restitution.

We have the right to preservation of property and employment, the right to have property returned if it is taken in a crime. I know it is part of the recommendations of our Presidential Task Force, but I want you to know what that means to victims when their property is taken and not returned. In our country it can go on for years on appeal. We have an outrageous case right now. It makes me absolutely livid. In the state of Washington there is a woman whose daughter was killed. The case took place in Florida. It happened ten years ago, and she has not been able to bury her daughter. The remains are still in the morgue, because the



case in on appeal. When will the anguish of that case end for the mother of that victim?

And what about employment? In most jurisdictions jurors are protected by statute from reprisal by an employer because of the employee's enforced absence from the job. Witnesses however, are rarely granted those protections. Thus, a rape victim in Kansas reported that she lost her job after spending three days at trial. Her employer gave her two reasons for her "termination": she had taken unexcused leave, and as a rape victim she was an embarrassment to his business.

I believe that victims have a right to due process – a right to have procedural safeguards similar to those we give the accused. The justice system was designed to protect the rights of the innocent and the falsely-accused, and justifiably so. Our forefathers faced malicious persecution throughout Europe, and many fled in fear of their lives in the face of unjust accusations. The constitutional protections we created for the defendant were not designed to persecute but to protect; the victim can be offered similar safeguards without destroying any that are afforded the criminal. For example, the United States Constitution gives the defendant the right to a speedy trial, not to an "unspeedy", endlessly postponed one. To ease the pain of victims waiting for the wheels of justice to turn, why isn't the victim given a right to an expeditious proceeding? Similarly, if the offender has a right to present evidence pertaining to his physical, financial and emotional circumstances at the time of sentencing, why doesn't the victim also have a right to discuss the impact of the crime upon his/her life? So too, if the defendant has a right to confront his accuser, why doesn't the victim have a right to confront his assailant? Such questions do not lend themselves to easy answers, nor should they be dealt with frivolously. But surely they are worthwhile issues for discussion and resolution.

Finally, I believe that all victims have a right to be treated with dignity and compassion. Every one of the other rights contributes to this: the recognition that victims are human with human strengths and frailties and sufferings. The primary goal of all the rights and services we are trying to create is the restoration of the victim's dignity. Something must be said about our slow progress in establishing that network of compassion. So far it has been especially weak in aiding certain vulnerable populations, such as minorities, rural residents, children, families and friends.

In conclusion, let me say that there is hope in the victims movement. There is hope in the legislation I spoke of earlier. There is hope in the recommendations of the Task Force on Crime Victims. And hope is found in people like you.

There are those who tell me that I am too serious about this issue, that I should be more light-hearted. I wish it was otherwise, but I cannot be light-hearted about the victims I know. Their pains weigh too heavily on me. Others who have heard my message have argued that victims should



have no rights because they are a part of the adversarial process. A justice system that cannot accommodate all parties before it fails in its mission and requires revision. It is because I feel strongly about protecting the rights of the accused that I believe so strongly in equal rights for the victim.

Still others have told me that victims have had no rights because they have no lobby, they don't care enough to take action. To them I say that the responsibility to create a more just society does not lie in the hands of the injured, the maimed, or those who grieve the murdered. Though there are fewer and fewer silent victims among us, the challenge and the responsibility belongs to all of us: to act, to fight for, and to demand a new future for justice.

Freedom without justice is the breeding ground for criminal tyranny. It is time for us to rebel against that tyranny and to create a society truly based on justice for all – even for the victim.

Thank you.



Delegates attending the Consultation heard victim justice experts from Canada as well as from the United States.

## CHAPTER 6

# Victims' Views of Justice (II)

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PANEL (MAY 8, 1984 – 9:00 A.M.)

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- ARTHUR DANIELS  
ASSISTANT DEPUTY MINISTER, OPERATIONS, MINISTRY OF COMMUNITY AND SOCIAL SERVICES, ONTARIO (CHAIRPERSON)
  - NORMAN WILLET, MANOTICK, ONTARIO
  - SHERI WILLET, MANOTICK, ONTARIO
  - WENDY PICKETT, KITCHENER, ONTARIO
- 

*The purpose of this session was to give crime victims an opportunity to share with the other delegates some of their feelings and personal experiences since the crime. Two separate incidents are related in which the victims were assaulted in their homes.*

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STEPHANIE WYCHOWANEC

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It is now my pleasure to turn the Consultation over to Arthur Daniels, who is the Assistant Deputy Minister, Operations in the Ministry of Community and Social Services, Province of Ontario, and he will be chairing the balance of the session. Arthur, please.

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ARTHUR DANIELS

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Thank you very much Stephanie. It's a pleasure to be here and to participate in the conference. My interest or involvement with the victim movement in Canada goes back to my days in the Ministry of Correctional Services. I was a member of the Federal-Provincial Task Force on Justice for Victims, and I had the opportunity of developing programs for victims' services in Rexdale with the Salvation Army.

This morning we will be dealing with a two-part panel. The first part deals with crime victims' views of justice, particularly victims of assault, and in the second part, we shall look at services to victims.

In preparing for this Consultation the other day, I was reading the Sunday Star. There was an article reprinted from the Chicago Tribune on the victims of crime, entitled "Victims of Crime Serve a Life Sentence". The author, Bob Green, talks about two people who have crossed his path in the last couple of years who were victims of crime. One of them was a mother of a kidnap victim, and the other a victim of assault. What impressed Bob and what constitutes the focus of the article is the devastating effect of crime and how it affects the victim for a lifetime. It's not a fleeting moment, it's not something that just passes. In the article, Bob talks about the mother of the kidnap victim who, even twelve years after the crime, when Bob in writing this article brought up the kidnapping again, sent him some material. She has dedicated her life to helping other people avoid having their children abducted and to preparing brochures and acting as a volunteer in the victim movement similar to many, many people here in the room.

What impressed Bob about the other victim was the way in which he had entered his assailant's life, although this person was a stranger. The victim makes constant reference to 'my incident' and 'my assailant'. The last paragraph sums up what I think we'll be hearing and what we've heard throughout the day and yesterday: "'my incident', 'my assailant' – the phrases sound as if he owns the crime and the attacker, rather than them owning him. They do, of course, own him in a way that continues to rob him of contentment and unclouded dreams. His assailant has stolen something from him that will never appear in a police report. His assailant has stolen his sense of peace." I think we've heard that time and time again. How does the system adjust to that kind of life-long sentence? That is what Bob Green talks about. I think this is an experience which people both within the system and outside the system can share.

The first speakers today will be Sheri and Norman Willet, who were victims of aggravated assault in 1982 in their home in Manotick, near Ottawa. I'm going to ask Sheri to go first if that's OK, Sheri, or would you rather have Norm go first?

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SHERI WILLET

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Norm goes first and I go second.

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ARTHUR DANIELS

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That's OK then. So Norm, maybe you could start off.

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## NORMAN WILLET

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Good morning. Before I start I'd like to say it's a real privilege to be here, to meet with people in administration, to be able to meet with all of you and to experience some of the things that you've been through as victims.

I'm going to briefly mention some of the particulars of our experience and then let Sheri, perhaps, touch on the emotional things that we've been through. Later, I will recap some of the different things that we found to be helpful.

We were in our house in Barhaven, actually, it wasn't Manotick at the time. That's another part of the story. It was four o'clock in the morning when a fellow came into the house and came up to our room and started to attack us as we slept. I was stabbed five or six times before I even woke up, before I even realized what was happening, and he went on to stab me about twenty-five times. Next he turned his attack on my wife and stabbed her repeatedly in the chest and abdomen and cut off a finger. What made this attack even worse was that we knew him. He was as close as a brother to us. I'd known him for over four years. He had stayed with us for nine months and we had not even had an argument. There was no provocation. There didn't seem to be any motive. The whole thing was senseless. It was a very hard thing to come to grips with . . . not only for us, but for the children – we had a two-year old at the time. The children who go through these things – whether it's a wife being beaten by a husband, or perhaps a mother being raped – feel an anguish that is just astronomical. I think they are the real victims in all this. We're old enough – we can probably get our lives back together, but the impact on our children can't be minimized. They experience terrible trauma.

I ended up losing my job through this. Not directly – but there was just so much tension and anxiety in the workplace that the relationship between my employer and myself couldn't continue – we had to go our different directions. And that was just the tip of the iceberg.

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## SHERI WILLET

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We went through what every crime victim goes through: shock, pain, anger, depression, extreme turmoil, but our final step was forgiveness. Healing is not only physical, but mental and psychological as well. One must have healing from inside in order to show it on the outside. In order to help others, you have to be able to help yourself.

We, too, were penalized by society after our crime. Somehow we were excluded from neighbourhood activities. Our neighbours would have barbecues, right underneath our kitchen window, and we were not asked. The neighbourhood children would have birthday parties: Melissa didn't



go. The mothers would get together and take the kids out to Dairy Queen: they never thought to ask us to go.

We had to move and about a year later, at the time we were building our house, I was just turning into the driveway when some drunk driver almost ran me over. He jumped out of his car, said "Mrs. Willett." "How did you know my name?" I asked. "I live in this neighbourhood and I read the papers too". This was a year after the incident, and he put pressure on me not to call the police, although he had been drinking. I said "Well, I have to go in and call my husband", so I went in and phoned the police. He did get charged, and I wonder if I hadn't called, if I would have been contributing to the crime. If he had been speeding a little faster than he was, again we would have been victims. Fortunately that time we were lucky.

Norm's sister drifted away, because she was engaged to the fellow who attacked us. She couldn't believe that he would do something like that, and she almost didn't believe us – as if we were liars. Finally she just accepted it but the closeness has not returned.

Our marriage became very shaky. We were fighting every day – fighting over who was going to get the kids. We were looking for a marriage counsellor but we couldn't find one. Nobody offered any help. When we finally did move, we planned a party, saying let bygones be bygones. We invited all the old neighbours to come and see our new house. Thirty-six people were invited. Guess how many showed up? A big fat zero.

When we asked the police for our belongings in March, (he was sentenced in February, so we waited our thirty days before an appeal) they phoned me back and said, "We're sorry, but you can't have them". I said "Why not?" and they said, "There's an appeal under way and they still have to be held." I said "Well, that really upsets me." And they said "You've done without them this long. It's not going to hurt you to be without them a little longer". Thanks a lot.

I tried to go back to work in January. It'll be two years this August. Our daughter started wetting the bed. She's four and a half now. And our son, who was only eleven weeks at the time of our incident, started throwing dirt around the living room, getting into my plants, throwing things, pulling books off the wall unit, throwing them around the living room, pulling cushions off the couch, trying to hit people, and he was only eleven weeks old.

My personal recommendations are these – be sensitive to victims' needs, talk to them about what they went through, let them speak and never, never stop saying "hello".

I just wanted to briefly go over a few of the problems we ran into and perhaps make a couple of recommendations. I think I'll touch on several areas here, the first being the police. It's obvious the police don't have time to spend with the victims to assess the impact of the crime on the victim's life, and it's only reasonable to assume that they can't really be sensitive to the individual needs of the victim. The role of the police in the victim-crime drama does not lend itself to an understanding of the trauma that the victim experiences. To them it is a job. If they were to get emotionally involved in every case, to a degree where they were truly involved in the trauma of the individual, surely the job would result in such mental fatigue that they wouldn't be able to continue. The police are prone to do things or act in such a way that the victim is often left feeling vulnerable and helpless, unable to reverse the situation. The victim, in the case of a violent crime, is not represented by a lawyer – things usually go through the Crown Attorney. There's no way that he can reverse a decision and there's no way that he can appeal a decision. What's being done is being done and that's all there is to it.

We found that the police weren't really aware of local programs and if they were, they didn't speak too highly of them. We found that there was a certain amount of – I'll call it professional prejudice – involved. They are constantly involved in this; they've had training, they've been to seminars. They can't understand, sometimes, the concerns we have – minor, frivolous concerns perhaps to them. We still haven't got back the things that were taken from our house over two years ago. They may feel, "What the heck – let's just wait a while longer", but to us this is important. We wanted these things back. They can't understand that.

We found that the police were very slow in giving updates, and there really wasn't much consideration given to our apprehensions and our fears. This is one of the worst things, I think. The police went around the neighbourhood door-to-door after our incident, asking such questions as "Did you see Sheri and Gus alone very much?" and "Did they spend very much time together?". This kind of questioning which came just short of asking whether there was any hanky-panky going on seeded all kinds of doubts in the minds of neighbours. What were they to think after that? I think this just demonstrates a lack of sensitivity.

Also, the children were left behind. No one assumed responsibility for them. I think that the police, as they were the first ones there, should have called a child-care agency of some sort. They could have easily called the Salvation Army with whom they were working hand in hand. (We were not aware that the Salvation Army had a program, until a month and a half after we were injured.)

The police didn't approach the family till half a day later. I think they

read about the incident in the paper first. The police informed them that the house had been broken into, but they were given no details. As family members, they deserve to know what is going on.

Turning now to the hospitals. When we went into the hospital, we lay for four and a half hours before a surgeon attended to us. They wouldn't give us any painkillers, and all they would do was stabilize us. It was a long week-end and the surgeon was not due in for duty until 9:00 o'clock. It was four in the morning. Why call him in a few hours early – let's let him sleep. Again, it was the delay that brought on so much anxiety.

I don't feel victims should be left alone in the hospital at all. Whether it's a candy-striper who is asked to stand by the bedside, or whoever, someone should be there. We were separated and Sheri was concerned that I was going to die, and I was concerned about her. We knew that we were roughly in the same area, but we couldn't see each other. This isolation was traumatic.

Victims need more attention and reassurance than a regular patient does. We were left to fend for ourselves. We had to have a family member come in and feed us.

Home care. Before we left the hospital I had to search for information on home care and home physiotherapy. That should have all been done for us. It took us several weeks to get these things organized. As a victim I had enough on my mind without having to worry about who was going to change the bandages when I got home. Again, the next of kin weren't called and weren't given the particulars and I think they should have been.

Courts. We found that the proceedings were very rushed, and not properly explained. It's not any one individual's fault. The Crown Attorney already had several cases on the go.

Court etiquette was not explained to us, e.g. dress codes, break times. There appeared to be a lack of communication between the police and the Crown, which led to conflicting instructions.

We were also not informed about public attendance in the Courts. A whole school bus full of kids came trooping in to watch the Court proceedings. It's their right, I suppose, but it made us feel as if we were part of a three-ring circus. I think the Crown's office should take the time to prepare victims for the crowds and the press they will encounter in court.

The Crown Attorney's attitude, I think, was worse than that of the police. It was his job to be there. It was his job to get a conviction. When we'd phone him and say, "We understand there's an appeal and . . .", we'd hear, "What's the problem? Go on with your life, you don't have anything to worry about. I'll give you a call." He couldn't understand our concern, our worry.

You have to have confidence. I've already heard of one instance where the Crown was asked to step down and another Crown lawyer was asked

to assume his responsibilities because there was a lack of trust. How can we place our trust in the system when we aren't confident that the Crown is applying himself to the case?

The press. We were not approached by the press initially because we were in hiding since the fellow had not been apprehended. When we returned home, it wasn't long before the press started to call and ask for interviews. We were called, I think by CBC, who were after a public interest story. They wanted to do a 20 minute tape session at the house. I got them to admit that this would be edited down to two or three minutes. We felt the editing involved would erase any measure of good we hoped to accomplish by doing the interview.

We found that we were misquoted in articles and that certain details were changed from day to day without corrections. When I phoned the paper to try to correct one mistake, the reporter made matters worse by misquoting something else. The day after I talked to the press, the police called me and intimidated me on the phone. They warned me to keep away from the press as they were "just a bunch of incompetents who didn't deserve any attention".

Since then I've talked to several police officers and I believe that the problem does not exist between reporters and the police department as much as it lies in the second and third-hand editing that takes a factual story and turns it into a sensationalized drama. For instance, in our case, the judge said the fellow who attacked us was like a time-bomb. The head-line read: "Time-bomb jailed for life in stabbing". This definitely attracts readers and sells papers, but it doesn't do much for the victims, or for the story that follows.

Perhaps an improvement in the police department would be the establishment of a victim assistance programme or a counselling facility. I've seen this already in Edmonton and Gloucester. There are so many other police forces that don't have the funding for this, however I really think this is something we should work towards. A secretary or another officer could call victims and their families on a regular basis to give updates, and to act as go-between for the detectives and the individuals, because again the detectives do not have time to handle this. We should look at education for the police as well, to familiarize them with available courses and services that are of help to the victims.

Back to the press for a minute, I think that the biggest issue is the tendency towards sensationalism. I would hope that eventually names, as often as possible, could be excluded, and that details, that perhaps aren't pertinent, such as ages and addresses, could be overlooked. If the victims are contacted, let's print only what the victims want to put down. Let's not blow things out of proportion and make it worse for the victim. It's difficult enough for us to come forward and to relate what we've been through. Victims are under a lot of stress and they are vulnerable.

They're easily led in a conversation, especially by a seemingly understanding listener. The story they read the next day may further aggravate their problems.

Finally, there is usually an immediate response to these situations on the part of the local church and clergy. It is unrealistic to think that every clergyman has the necessary training or even the time to handle the demand that victims put on them. Yet, the first person we found in the hospital was the minister. The people who responded in the crisis were the people from the local church. The people bringing foodstuffs to the door, babysitting the children, cutting the grass, were all from the local church, and they had no training.

One aspect that I think should be stressed is the availability of resource material to these groups, and this must be interdenominational. A Muslim would not like the Salvation Army knocking on his door, and vice-versa. We have to educate not only one or two of these groups, but as many as possible. Perhaps a central resource centre could be established to supply groups with books, tapes, literature on victims' needs, government help, social services, a directory of government agencies providing victim programs and a list of names of members and numbers. Perhaps a counsellor could be on hand or individuals who could help the interested party in obtaining information or services for the victim. Resources such as this could be announced at local evangelical meetings, or published interdenominationally in some manner. To ease the load placed upon them, the police could also refer people to this resource centre. It's impractical to think that any one person, church or churches should fund this entirely. I feel we should combine our present knowledge and all available resources. I was given an update from the Church Council this week-end and there was a list inside that really surprised me – ten different church denominations are involved. And so, I think that we should definitely make a joint effort here.

Being involved in this Consultation has made me realize the necessity of victims communicating among themselves. We have seen a lot of groups spring up out of necessity and anguish, and I suggest that all of us need to stay in touch and support one another. A series of central resource information centres has been discussed several times this week, and I think we should be working towards a central victim pool or organization that can address the problems and present concerns of victims.

Since Sheri and I have been here, we have found answers to several questions that we've had. Our attitudes have changed and our outlook has become broader. We've seen the necessity of being involved. We don't want incarceration to be the ultimate goal. We surely don't want victim impact statements to be viewed as an emotional, or irrational, outburst. What we want is to be consulted about decisions within the justice and correctional departments and to be given a chance to have our views heard and our rights upheld. These things are more important



than financial compensation could ever be. We must continue with our lives without compromising our values. People try to encourage hatred and mistrust, even going out and buying a gun, but that to me would be admitting another victory for the assailant. He would have changed us again. We have to retain our identity. We need time and we need understanding. We have to be able to work together in love and concern for others to redevelop our sense of worth and purpose in the community. Thank you.

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### ARTHUR DANIELS

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Thank you very much Sheri and Norman. We'll be taking some questions after the completion of the whole panel.

Wendy Pickett is our next speaker. Wendy is a mother from London, Ontario, whose home was broken into and her small child attacked. Wendy is going to share that experience with us, as well as some of her suggestions for the future.

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### WENDY PICKETT

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Good morning. I was a victim of a crime about five years ago. It was right after I had my second child. I was only home from the hospital four days. I had a call in the morning which got me out of bed about nine o'clock, from somebody asking for my husband. I told the caller that he was not home. I stayed up and got the baby up and I was going to make him breakfast when there was somebody at the door. I assumed, since the person knew my name, that it was the nurse that comes around after you have a baby to see how things are going, or the Welcome Wagon. She asked to come in. I said yes and let her in. I turned around to unplug the kettle and when I turned back she had a gun pointed at me. My first thought was that she wanted money. I did have some money in the house and I was going to tell her this, but that's not what she wanted.

She asked me to pick up the baby and set him on the couch in the living room and she said that if I did as she said, we wouldn't be hurt. She made us go up to my oldest son's room, (he was two years old at the time) and she locked us in the closet. She then moved a set of drawers and the crib over in front of the door so we couldn't get out. All I could think of was that baby downstairs, and actually I thought that she was going to take him. And she had enough time, I suppose, while I was trying to get out of the closet. I don't know how I managed to get out, but I got the door open a crack and I just kept pushing and pushing. She heard me and she came up after me. Now, when she first came to the door, she had a box. I found out later what was in that box – a hammer and a knife. As soon as I got out of the closet, I started fighting with her

and the next thing I knew, I was conked over the head, and it was a big enough blow that it knocked me to the floor.

I lay there. I didn't think I could get back up but I kept thinking, "I can't let her get to my baby," so I just kept fighting with her for about five or ten minutes until I was able to overpower her. In the meantime she did have a knife with which she tried to stab me in the back. I had all sorts of cuts across my face and wrists and hands. She finally gave in and said "If you just stop I'll go, I'll get my things and I'll leave". As soon as I let go of the hammer, she smacked me again. She still had the knife. I had to grab the knife by the blade in order to try and get it from her but I couldn't, so I just dragged her downstairs, opened the door and pushed her out. I didn't let go of that knife until she was out the door, and she kept saying, "I need my things". I said "Once you're out, I'll come down and throw them out to you". When I looked out the window, she was still waiting there for me to throw all her things out.

I did get a look at her licence plate, and called the police. They found her maybe a mile from the house. I had told them she had red hair and was wearing a blue pant-suit. They asked me if she was pregnant. I said, "No she wasn't pregnant as far as I could tell." They found a blond haired woman, dressed as if she was pregnant. When we went to the police station, we learned that she had told them that I was having an affair with her common-law husband of ten years who had left her. Well, I said I had never heard of him, and when the police questioned him they found he didn't know me either.

It was obvious she had made a mistake. She had told the police that she got my name out of the paper from the birth announcement. The police let her go. She had said she was pregnant and was due in the next day or so. When we told our families what had happened, my father-in-law said he couldn't believe that they could let her out to run around in our community after what she had done. He said that until she was put into jail, he wanted police protection for the whole family. My husband's family has 11 children. They put a policeman outside everyone's house. I had two sisters-in-law who were also pregnant and we didn't know if this woman had perhaps picked me by mistake. Now, we did ask for another bail hearing to see if we could keep her under lock and key, but it turned out that she wasn't pregnant at all. She had had an abortion 6 or 7 months beforehand. She was on maternity leave – letting on that she was pregnant. We discovered most of this ourselves. The police really didn't do much checking. They had not even phoned her doctor to verify her story.

The Crown Attorney's office was very helpful. My girlfriend's mother worked for the Crown Attorney, so I was informed of all dates and I have no complaints there. I just felt that the police didn't do their homework. Any information that we had found, we asked them to verify. This woman wasn't let out on bail and she went for assessment. She did plead

guilty so I didn't have to go through any lengthy trial or anything like that. We went to the sentencing and I was really hoping that she'd get about 2 years. She was only sentenced to 6 months and she had already served 2 or 3 months. I felt I just couldn't handle that short a time. The only thing I wanted to do was move, because she knew where I lived and I thought, she's going to come back. What really upset me was that I'd actually felt sorry for her. She had said that she was pregnant and had lost her first boyfriend to another woman. I had actually felt sorry for her and then when it came to me, she had no remorse about what she did. In fact, I don't even think she knew she did anything wrong.

After she got out, she was supposed to go for psychiatric care for two years as an out-patient at our local hospital. She wasn't to come around and bother me – and she wasn't allowed to have anything to do with children for two years. In December, around Christmas, I was outside with my son, playing in the snow – and who was sitting two doors away but her in her car. I saw her after that, driving by our house.

At that time, I did have the support of my family, but I still felt so alone. Although they were understanding, I felt that no one really knew what I was going through. Actually I thought I was going crazy and I felt that I'd better go and get some help. I had a friend who was a nurse and she recommended a psychiatrist whom I did go to see. He told me I should take out some of my anger on the people I felt I was mad at. So I did what he said. I wrote to the judge and told him that I was disappointed in his decision. I felt that six months was no more than a slap on the wrist and I said that with her out running around I felt that our community wasn't safe anymore. And after I did that, he must have informed the Chief of Police and the two detectives came out again. After that, I didn't see her for a while. But this didn't last very long. We got a lot of phone calls. It seemed that as soon as one of us left the house, whether it was my husband or myself – we were gone for less than 5 minutes – the phone would ring. The caller wouldn't say anything, but was just checking to see who was home. I was sure something was going to happen.

We didn't do anything about it for a long time, because we weren't actually positive. I was left alone quite a bit in the house. I didn't feel safe in my own home. In fact, I couldn't even let the children out without me being with them. I kept telling my husband about all these things that were happening, the phone calls, and that people were trying to get into the house when he was gone. I think after a while he didn't believe me anymore. I think he thought I was making the whole thing up until one night, I went to bed and he was up and he shut off the light and was just sitting there. There was someone trying to break into our home.

We hired a private detective because we felt the police hadn't been doing their homework. They had told me there was a warrant out for her arrest because she didn't serve any of her probationary period; but this

was a small community, I just couldn't understand why they were unable to locate her, because she was definitely there. The private detective discovered that she was living right around the corner from us.

I really wish I had had somebody to talk to – somebody that had been through something similar. We had no victims' group in town at that time. I only heard about compensation through a girlfriend who worked for a lawyer and who suggested I apply. Now, contrary to what I heard yesterday in the compensation group, I didn't feel that the Compensation Board was working for the victim. I felt like I was on trial. They made me feel as if I had done it . . . as if I was responsible for what had happened. The first thing I was asked was how long I had been married. I said 5 years. They then asked me how many affairs I had had within that time. They also told me that I wasn't very badly hurt and that I couldn't have been hit very hard with the hammer. Well, I guess it was because I didn't have a hole in my head from her hitting me. I was so mad at that time, because I really didn't have a chance to tell my story. I wished I had had a lawyer there to speak for me because I just shut up. I was upset and humiliated.

After the woman who attacked us was sentenced, her claim that I was having an affair with her common-law husband appeared in the paper. Of course, some of our family and friends thought I had actually done that. I was now at the point where I didn't care anymore what people thought. My husband and I both knew the truth and that was all that mattered. However, we did have quite a few friends or casual acquaintances come over to the house, and look at the baby to see if he looked like one of us.

I wished that we had a victims' group in town, and by some amazing stroke of luck, I heard on the radio one day a fellow saying he would like to start up a group. He said he really felt there was a need for it. I couldn't believe what I was hearing. I gave him a call and he came over and talked to me. He gave me a book to read and it was the first time that I felt that I wasn't going crazy – it was a great relief to me. I didn't know that other victims felt the same way, I just thought I was the only one. I read this book and it was just like listening to everybody's stories yesterday. I felt this was what I needed to put me on the road to recovery. I gave him some suggestions as to what I felt would be needed if we started a group in town. I thought it would be helpful just to talk to somebody after it happened, to accompany them to court and to explain that there was compensation available. He has started the group and I'm thankful that victims will have somebody to turn to.

So today, after five years, I really feel that I'm amongst friends. I'm telling my story for the first time. I am confident of your understanding and I thank you for this opportunity.

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## ARTHUR DANIELS

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Well we've been thrown many challenges by Wendy and Norm and Sheri in this first session this morning. I'd ask for a one minute break while the other three panelists take their places – and if Wendy and Norm and Sheri could sit down in front, we'll hopefully have some time for questions later. Thank you very much.





## CHAPTER 7

# Services for Victims

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PANEL (MAY 8, 1984 – 9:30 A.M.)

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- ARTHUR DANIELS

ASSISTANT DEPUTY MINISTER, OPERATIONS, MINISTRY OF COMMUNITY AND SOCIAL SERVICES, ONTARIO (CHAIRPERSON)

- STERLING O'LAN

MANAGER, CALIFORNIA VICTIM/WITNESS ASSISTANCE PROGRAM

- TERRY HUNSLEY

EXEC. DIRECTOR, CANADIAN COUNCIL ON SOCIAL DEVELOPMENT

- BRIAN SAWYER

CHIEF OF POLICE, CITY OF CALGARY, ALBERTA

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*Identification of the types of services that might assist victims of violent crimes to recover from the experience . . . review of California's penalty assessment system, guidelines and standards for victims' services, and California's victims' bill of rights and restitution legislation (Proposition 8) . . . overview of victim research and program activities of the Canadian Council on Social Development . . . identification of emerging issues in victim justice services and the need for a broad-base strategy for service development . . . review of police-based projects on victim assistance and crisis intervention . . . the need for guidelines and training programs for police departments . . . the need for a national clearing house and greater coordination of information.*

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ARTHUR DANIELS

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Thank you very much, ladies and gentlemen. In the previous session we heard from victims, we learned of their requirements and of some of the ways in which they feel the criminal justice system can respond to their needs. Next, we'll be hearing from three service providers who will look

at some of the solutions that other provinces, cities and states have implemented. This is a chance to learn from their programs.

The first speaker is Sterling O'Rand. He is the Manager of the California Victim/Witness Assistance Program, in Sacramento. His agency has collected more than \$80 million in penalty assessments from offenders which was used to fund Juvenile Crime Prevention-Career Criminal teams, victim compensation and victim assistance. Nearly \$2 million goes to local comprehensive victim service centres established in 30 counties throughout the State of California. These agencies provide crisis intervention, referral services to other agencies and many other services which help victims and witnesses. In 1983, California accepted Proposition 8 which has placed more emphasis on restitution. Sterling.

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### STERLING O'RAND

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Good morning. I bring to you greetings from the great State of California. The best public speaking practices call for winning over your audience by telling them a funny or humoristic story, but I'm not moved to do that this morning after the presentations that we've heard here yesterday and today. I think that if there is any message in my presentation to you, it is the theme – "It's possible". It's possible to respond to the need of crime victims in a comprehensive way and it certainly is time.

I'm here to talk to you this morning about a fines and penalty assessments collection mechanism, about the establishment of victim services and how this was achieved in California and about California's victims' bill of rights and the restitution statutes that were introduced. California is a state which has 22 million residents. Last year there were 813,788 reported major crimes. That figures does not include all the misdemeanour or lower crimes reported, but is based upon such crimes as homicide, rape, robbery, aggravated assault, motor vehicle theft, auto theft and larceny thefts.

In 1977, California began a pilot project based upon our success with LEAA or federally-funded victim assistance programs and legislation was passed which established victim/witness assistance centres. The success of these projects led to the creation, in 1979, of a program which provided for the imposition and collection of a special penalty assessment upon all convicted offenders; \$5.00 for misdemeanours and \$20.00 for felonies. In the first year, we were able to fund victim/witness assistance centres with \$3 million that we had collected. We later changed the penalty assessment structure to attach \$3.00 onto each \$10.00 of fine; i.e., in addition to every \$10.00 we added an additional \$3.00, and then \$4.00 and now it is a 50% surcharge on every fine that is imposed in the State of California. Unlike here, fines are retained locally and the penalty assessment is sent to the state. The penalty assessments are then used to support programs such as peace officers' standards and training, driver

education, fish and game activities, and training for correctional and probation officers. Approximately one quarter of the funds support victims through the administration of the victims' compensation program and the victim/witness assistance services as well as child sexual abuse programs and sexual assault programs.

In California, we use these funds and distribute them according to a method which uses the population and crime rate of each jurisdiction. We have 58 counties in the State of California and we fund programs which are in 35 of these counties. This covers over 97% of the state's population, about 96% of the state's crime rate. So through the distribution of the fine and penalty assessment money based on crime and population data, we feel that we have spread the money across the state as best we can.

This year, we expect that the penalty assessment fund will collect approximately \$120 million to support all the programs that I mentioned. Over \$27 million will go to victim assistance. What do we do with all this money? Victim witness programs were established to provide comprehensive services to all types of victims. When I began to administer these programs, I saw that it was becoming very important that we standardize services to all types of crime victims, as we do in other services. Therefore we established programs throughout the state, in these 35 counties and required that they provide services to victims in a standardized way.

We developed these programs so that they would be of benefit not only to victims but of support to law enforcement officers and prosecutors and to the courts in managing their time more effectively, by assisting them in giving support to victims. The types of services that we provide to victims include: crisis intervention, emergency assistance (such as food, clothing or financial assistance), resource and referral counselling. We require each of our programs to do this. I would like to point out that we need not rely on government or the offenders or the tax payers to support these programs. Services exist within the community which can be effectively utilized to provide resource and referral services to crime victims. There is no question that some financial support must go to the development of victim assistance programs. Our program assists victims of violent crime in filing compensation claims, to reduce the amount of time necessary to receive repayment. They provide victims with an orientation with respect to the criminal justice system; an explanation of what their role in that system is. We've established witness waiting rooms which act as a sort of sanctuary for the victims and witnesses when they come to court to testify. This also helps to avoid confrontation with the accused or the accused's family. We give public presentations to the community to make people aware of what we're doing and to facilitate access to our services. We provide support services to the families of victims, because they too, as you've heard, are victims.

The witness services provided by these programs include court escort and what we call "civilian call-off" or "witness call-off" services. Witnesses are often given little information about their cases and are required to come to court repeatedly, only to be told sometime during the day that they are no longer needed. We have therefore set up a system whereby witnesses are alerted as to when they are needed. We've established subpoena by mail procedures, codified the issuing of subpoenas and required that citizens respond to subpoenas issued by mail.

In 1975, the National District Attorneys Association conducted a study of their practices across the United States, and found that they too were victimizing victims a second time by not having the common decency to notify them as to what the disposition of their case was. They treated victims solely as an element of the case. They called upon them to come forward, to set aside all their business and to testify – and yet they didn't have the courtesy to tell them what had happened in their case. We try to keep victims informed of the status of their case. We let them know that there is a phone number where they can obtain information about where their case is in the criminal justice system. Those are required services. We also provide translation services because we have a large Spanish-speaking population in California. Follow-up contact is mandatory to ensure that the services were received. We require that victim advocates go out into the community to provide assistance rather than wait in an office for the victim to contact them. Victims may be incapacitated and so victim services need to be able to leave the office to render assistance.

We require all our programs to operate with the assistance of volunteers. Community support is essential to the successful operation of the victim assistance program. Our programs have special services for the elderly, although as victimization studies show, the elderly are not victimized at a greater rate than other groups. The elderly do have special needs and we believe we should respond to these needs.

We have allowed for some creativity in California. Additional services offered include: meeting with employers to explain the circumstances in which the victim is involved and the reasons why he or she may be experiencing difficulty with their work; creditor intervention, to explain to creditors that compensation is on the way and to ask that they hold their bills in abeyance; child care in jurisdictions where it is necessary; property return – California has established, as many jurisdictions have here, a process for photographing property and for returning it promptly; crime prevention information to victims, since it doesn't make much sense to help victims to restore their lives to normality without providing them with crime prevention information so that they can begin to redevelop normal considerations for preventing crime; assistance in obtaining temporary restraining orders in cases of domestic violence.

We have developed law enforcement call-off systems where we call



off law enforcement officers if they are not needed to testify. Many officers previously received overtime for the hours they spent in court . . . so we've made friends with city managers and enemies of the law enforcement officers. This has resulted in less down time, or time spent away from patrol. In addition, we have witness protection programs and we provide emergency transportation for victims.

That is briefly an explanation of what the services are. I could elaborate on those at length, but I just wanted to highlight them for you.

Let me now explain the funding mechanism. Los Angeles County is the largest county in California and has one third of the state's population – over 7 million people. Approximately \$1.8 million will go to Los Angeles County for victim services. We are quite proud of that because that is a very significant amount of money going to a county to aid victims. Our smallest counties have populations of under 100,000. We have set a base which allows for a minimum of \$50,000 to operate a victim service program. We believe this is the bare minimum which can be used to hire a professional staff and a clerical staff to provide services to crime victims. This does not take into account the need for 24-hour crisis intervention, the operation of a domestic violence shelter, or some of the other emergency services, but it provides basic support to crime victims, law enforcement officers and prosecutors.

I would like to tell you a little about the other accomplishments of which we are quite proud in California. In addition to 35 victim/witness assistance programs, we have 58 sexual assault centres that are funded by the same source. They are all private, non-profit groups. We have 28 child sexual abuse programs which are also funded by the same source . . . approximately \$10.5 million will go to those victim assistance programs this year from the fines and penalty assessments collected from convicted offenders.

Through our activities, we have established a network of service providers throughout the state to ensure an effective exchange of information among victim service personnel, to provide them with support and to advance the state of the art of victim services. Victim/witness assistance programs assist victims, as I mentioned, in filing compensation claims and they handle over 60% of the claims received. We make public service announcements throughout the state with actor Charlton Heston. These are 15 and 30 second announcements apprising victims of the services and the support that are available to them. The victim/witness program coordinator and sexual assault service providers have developed a five year plan in which they are projecting where they want to go in the area of victim services.

We have set up a toll-free (800) number that victims can call for information about the program nearest them. The office in which I work is now collaborating with a local law school in Sacramento to establish a legal assistance program for victims; to assist them in filing third party

law suits or suits against offenders, civil litigation and the recovery of funds. This too has an (800) number and is available to victims through a hot-line.

What we are most proud of is the fact that we have over 240 paid individuals, as well as volunteers and part-time employees throughout the state who are providing direct assistance to victims. We are also proud of the fact that other states have followed our lead in establishing a similar penalty assessment structure. The federal government as well is modelling their legislation on our system.

California often prides itself on its leadership. In 1965, we were the first to establish the nation's compensation program, modelled after those in Great Britain and New Zealand. We were first to secure the payment of medical examination fees for sexual assault victims. We were among the first to introduce the photographing of property and property return procedures, and we have just recently established a medical protocol committee to examine how sexual assault victims are treated in hospitals. Oftentimes we introduce medical protocol statutes, but their implementation is quite a different story. So we have identified experts across the state and have created a medical protocol committee to determine standards for the treatment of sexual assault victims in all of California's hospitals. I envisage the same concept being applied to domestic victims and to victims of all types.

In the remaining time, let me tell you briefly about California's Proposition 8. I am sure that you have heard a great deal about it. It is unlike any other victims' bill of rights. It is based in part on the concept of restitution.

In California, before the passage of Proposition 8, we had a move towards the establishment of mandatory sentencing or determinate sentencing laws. Formerly, a person would be sentenced and the Parole Board would set their term of incarceration. We codified or set in statutes the length of time that a person would serve for each type of crime. Taking into account this situation and the fact that several components of Proposition 8 had failed to pass the legislature, you can appreciate that the citizens' initiative, which amended our constitution and established many of these concepts to form a victims' bill of rights, received a great ground swell of public support.

The basic premises involved in this victims' bill of rights are: that the citizens have the right to have the offender incarcerated or detained; that they have the right to see that offenders are punished; and they have the right to expect that the public is protected. They have the right to expect that the criminal justice system will provide deterrents to the commission of crime. Those are the basic concepts. Also included in this bill of rights is the victim's right to restitution or restitution consideration in each and every case. I will be speaking to that in more detail shortly.

Another component of this bill involves the truth and evidence clause which states that relevant evidence shall not be excluded in any criminal proceeding, pre-trial, post-conviction motion and hearing, or in any trial or hearing in both adult and juvenile cases. This represented a very sweeping change – where the evidence gathered, if relevant, regardless of the circumstances, would be admissible. We had public safety bail changes. There would be no bail in capital crimes. There would be no “own recognizance” or release without bail in regard to serious felonies, and this strengthened the public safety hearings. The District Attorney was required to appear, whenever this was being considered.

There were changes involving consideration of prior convictions and sentencing considerations in felony offences which enhanced the determinate sentencing structure that had been established. We did away with the diminished capacity defense, in juvenile and adult cases. Intoxication, trauma, mental illness, disease are not admissible as defense. An insanity plea of not guilty must be proven by a preponderance of evidence showing no knowledge of right from wrong.

The Bill acted to increase penalties for habitual offenders, or “career criminals”. It has strengthened the victim’s right to participate in the criminal justice system by allowing the victim to make a statement in parole and probation or sentencing proceedings. It strengthened this right not only for the victim but for the victim’s next-of-kin. We heard a previous speaker say – “I didn’t have an opportunity to tell my story”. In California, we found that while not all victims made use of it, the opportunity to make a victim impact statement in open court has enhanced the administration of justice. The additional point of view provided by the victim has helped to balance the scales of justice and permits the court to consider the full impact of the crime. Finally, we limited plea bargaining in California: prohibited plea bargaining unless there was insufficient evidence, no material witness, and/or a reduction or dismissal. This would not result in a substantial change in the original charge.

As I mentioned, by far the most sweeping changes that occurred, in addition to the victim impact statement, were in regard to restitution. The victims’ bill of rights states that there shall be restitution in each and every case. Unfortunately, they failed to ask the individuals who have to administer restitution how this was to be accomplished, but the legislature in California wrestled with it as best they could and came up with bills that represent the following concept: – that in accordance with the victims’ bill of rights, restitution would be ordered in every case unless there were compelling and extraordinary circumstances indicating that the offender was unable to pay. In such cases, the court is required to consider the offender’s participation in a public service or community restitution program. Should the offender be unable to participate due to incarceration or other extraordinary reasons, a statement must be made

and registered as to why the court is not ordering restitution. Previously, our statutes stated that the court *may* order restitution. We found that in many cases it wasn't being ordered or considered.

The Victims of Violent Crime Compensation Fund has been renamed the Restitution Fund. Other sources of revenue have been generated for this fund and the ceilings on the amount of money that can be paid to individual victims have been raised. As well, the range of claims covered by the fund has been expanded. In every case involving a felony, the courts are required to determine whether the offender can pay a minimum of \$100, in an additional fine above any other fine of \$100 to \$10,000, to this Restitution Fund. This fine applies to adult and juvenile offences and is commensurate with the type of offence. We have yet to see what the collections rate on this will be.

We now require that victims be notified by probation officer of their right to file for civil redress. This applies in particular to juvenile cases where the juvenile is 18 years old and the Statute of Limitations to file a civil suit will expire. Restitution can now be a form of parole. The parole officer must administer or review the collection of restitution. Restitution may also be made through community services, as I mentioned, when financial restitution is not possible. Up to 20% of any income earned by adult prisoners or California Youth Authority wards while incarcerated may be collected to satisfy outstanding restitution fines. We have doubled the civil liabilities of parents to \$10,000, for acts committed by a minor convicted of a juvenile crime. We have also strengthened the victim's rights in civil court by enacting a statute which requires that any civil suit filed by a victim take precedence over other civil suits.

This has been a very brief review of our fines and penalty assessments collection, of our programs and how we administer them in California. Other programs or statutes of which we are quite proud include: mandatory child abuse reporting; sexual assault victims' confidentiality – between the counsellor and the victim; training for law enforcement officers in the area of child abuse and sexual assault; and the recognition of next-of-kin as victims.

As all of us in this field move forward in the area of victims' rights, I believe we are only limited by our imagination and by the level of commitment we direct to this issue. I am convinced that many of the changes that will take place here in Canada will be the result of what you have heard at this Consultation.

My best to you. God speed and I wish you well in your efforts to improve victims' rights. It has been my pleasure to be here. Thank you.

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ARTHUR DANIELS

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Thank you very much, Sterling.

Our next speaker is Terry Hunsley, Executive Director of the Canadian



Council on Social Development. His agency was quick to realize the importance of assistance for victims of crime and published, "Rights and Services for Victims of Crime" – a booklet that has also summarized a number of programs throughout Canada. The Council is currently working on programs directed towards Native victims, and on a newsletter that links persons interested in victims' assistance across the country. The Council was involved in the very successful NOVA conference in 1981. Terry, could you share with us some of your ideas for the future.

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### TERRY HUNSLEY

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Thank you very much, Art. To begin with I should say that I am not a victim specialist, nor a victim service specialist. I think in fact that I have gained much more in participating in this conference than I will be able to contribute in return. It is clear to me that not only is there a tremendous commitment and dedication among people who are victims, but that this commitment and dedication will be absolutely essential if the momentum of victim service development is to be continued.

Many of you may not be familiar with the organization that I represent. The Canadian Council on Social Development is a national voluntary organization whose purpose is to promote the development of humane and responsive policies and services. As a private charitable body, our mandate is quite broad, covering the entire social policy field of health services, income security, social services, housing, employment, citizenship and social justice. Since our size is small but our objectives large, we obviously cannot meet all needs at all time. However, we have over the years established a developmental approach – one whereby we do basic research, and exchange information in collaboration with other organizations and in support of people who have specific objectives.

Our name has changed over the past sixty-four years. We were formerly called the Canadian National Council on Child and Family Welfare. For several years we were called the Canadian Welfare Council, and in 1970, we changed our name to the current one. Over the years, our organization has "parented" a number of other organizations, such as, the Canadian Association for Prevention of Crime (which is represented here today), the Canadian Council on Children and Youth, the International Social Services Association, and the United Way of Canada.

We have been involved with certain kinds of victims for many years without necessarily identifying them as such, specifically, abused children, victims of family violence and so on. They have been the subject of much of our research and development work. In 1980, we began a specific program of activities, aimed at raising issues related to victims and witnesses of crime: two surveys of victim services, the blue book which I think is being distributed at the back of the room, a pamphlet on rights and services for victims, the co-sponsoring of the NOVA con-



ference in 1981 and a study on Natives as crime victims. All these activities were supported by both federal and provincial government departments.

We are planning several new projects for the near future. We would like to launch a victims' newsletter in the next few months, to establish a network of organizations involved in the victims' field. Phyllis Searson, who is with me today from our organization, will be co-ordinating the development of this newsletter. I think she has talked to many of you and we certainly welcome input from all groups. We will be cooperating with what is becoming a national initiative to involve and sensitize mental health professionals to the whole area of trauma. If things go well, we will see a conference on that subject in the not-too-distant future. We have also been supporting initiatives to bring social planning agencies and councils, and community networks together with police groups in an effort to meet victims' needs on a local level.

Through our research, we have identified a number of trends in victim needs and service needs. I would like to mention three or four basic conclusions that we have reached in looking at and comparing the 1981 survey of services, for example, to the 1983 survey. First, we are seeing a number of very important pilot projects being developed in different parts of the country. A few have been halted. Others are being maintained or expanded, but overall, we are seeing very little comprehensive service development. The service needs of victims are being clearly identified, but the integration of these services into the whole social service system is very slow. We have identified the need for immediate emergency services, personal support services, rights to counsel, protection of property rights, financial support, continuing emotional support and mental health services. We have found that one of the most universal needs is the need for information – information related to cases, to the justice system, to services and to the rights of the victim.

We are seeing the expansion of training programs in many parts of the country. There is a growing awareness of the need for training in the police forces and in the justice system. Training in sensitization must also be taught in the human service system to health professionals, nurses, doctors, welfare officials and workers in public agencies and community services. We are seeing in some cases specific services being expanded in the area of child abuse, in the development of crisis intervention and in emergency support services, especially in cases of family violence. Yet major problems remain with respect to many of those services, because many are still dependent on per diem rates, per diem funding, where the service provided must be very specific and must be tied to financial need. Also, we have seen very little support for preventive or public education services. The growing recognition, however, both within the political and bureaucratic systems, of the need to respond to victims' needs is very encouraging. We have not seen a great deal of progress yet

in the actual development of service, but hopefully we will, and I think that the kind of momentum that comes from this type of meeting is very important.

People in my field of human services have made a great many mistakes in the past years and as we move to support the development of services, we should examine our actions carefully so that we do not repeat mistakes that we have made in the past. For example, many of us throughout the late 60's and 70's adhered to something called "the incremental approach" which contended that where a need was identified in any service system, the development of that service was to be supported. We felt that if there was a need, things would all work out in the end. However, we found and we are finding, not only here in Canada but in many other countries, that the unplanned, often inefficient development of services, ultimately works to the detriment of those very services which we are trying to develop. We also found that the funding of services has a limit and that government simply cannot respond to the kind of comprehensive needs that exist. So, we must identify methods of service development which are effective, cost efficient and responsive to individual and social needs. We should seriously consider, not only specific recommendations for action by which we can all measure our progress one or two years down the road, but we should also review the very basic principles that underlie services to ensure that the developments we support will go beyond the pilot project stage and will become available in all communities.

We have identified the need for responsive victim assistance services and for preventive services, both in a primary protective sense and in a more generic sense, to reduce the likelihood of violent crime and to reduce the vulnerability of communities. I think we should be recommending a comprehensive strategy of development by government and by communities, so that all types of services are emphasized. We must consider carefully the appropriate roles and responsibilities of government as a service delivery network and also as a servant of society. Should we concentrate service development in one system, for example, the justice system, or should we try to sensitize a broader system which transcends government bureaucracy? Should governments respond directly by developing services, or should they define the rights and basic service entitlements of victims and then work to develop the capacity of voluntary and public organizations and self-help groups to provide these services? In promoting broader participation in the development of victim services would we ensure an on-going commitment? There is always the danger of bureaucratic fads. Some issues, in effect, go out of style. Therefore the commitment to the development of services must go beyond any particular service delivery system or network.

In considering the funding of victim services and entitlements, should we distinguish between the responsibilities of the offender and the re-

sponsibilities of society? The role of the offender in the areas of restitution and financial compensation have been discussed, and I should say that our organization supports the idea of restitution. Yesterday, however, I heard a statement which caused me some concern. The statement was, "The offender and not the taxpayer should bear the burden". Should the level of compensation to victims be determined by the offender's ability to pay? I wonder how a surtax differs from a fine. It appears that it differs in being earmarked for victim services, but could it not, in fact, be inversed? Could the bulk of the money which is collected in fines not just as easily be made available for compensation and services as the smaller percentage of surtax which is being discussed? I am concerned that in looking for a source of funds, we may place a limit on the responsibility of society to respond to very serious needs. I feel we must consider this in some depth. I think most people would agree that compensation should not be tied in any way to participation in the justice system. As you know, a very high percentage of crimes go unreported or do not result in conviction, and yet these victims are still entitled to compensation in my view. We must make sure that services and compensation are available to them. We heard yesterday that in some states in the U.S., victims are in fact administering victim compensation programs. It seems logical that the criteria established for compensating witnesses and victims of crime should be developed by victims and not necessarily by the justice system.

It is very important that victims know that society cares about them. Someone noted yesterday the lack of bonding between certain classes of offenders in the community – let us try to ensure that the bonds are not severed for victims as well. It is the community that can best respond to the long term needs of victims.

I have a number of specific recommendations which I would like to list. I believe that victims' rights and service entitlements should be defined in legislation in a comprehensive commitment to victims. We should intensify our training and sensitization efforts not only in police forces, but in other systems in the community and in the public service network; health, justice, welfare and social service systems, as well as the community services networks that are already in place and that are not in the public sector; the voluntary service networks; the United Way's community service networks; church service networks – all have to be made aware of victims' needs.

I believe we should regularize the funding of a number of basic services such as emergency support, crisis intervention and information and referral services. The criteria for these services should not be financial as they are now, but simply the need for the service.

Basic and immediate information should be provided to victims at every step along the way. We should strengthen the basic generic and preventive services in our community, especially the public health services (one of

the most under-utilized resources in the country) which has the potential to intervene early. School guidance services and life challenge curricula, relating to such subjects as parenting and employment are much needed in all our schools to prepare young people for life.

Where appropriate, and I think it is more appropriate in cases of non-violent crime, we need to develop reconciliation services as well as mediation services.

We have to support information exchange research and networking, not only at a national level, but at a provincial level, since that is where the jurisdiction for most of the service delivery systems lies. I suggest that we propose the support of a co-ordinating role for victims' organizations, and that the province consider supporting that kind of initiative.

Finally, I believe that we must ask that government planning systems plan victims back into the system, to the same extent as they were, in fact, planned out of the system in the first place. I thank you very much.

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### ARTHUR DANIELS

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Thank you very much, Terry.

We are running a little late, however we have permission to go on to 11:00, so that we can hear our final speaker, the chief of police of the city of Calgary, Brian Sawyer. Brian is one of the leaders of victim service programming in Canada. We, in Ontario, have borrowed constantly from the programs in Calgary and we have travelled to Calgary to look at their services on a number of occasions. In preparing the Federal-Provincial Task Force, we also had input from the cities of Calgary and Edmonton. Recognizing Brian's great talent, the Province of Alberta has recently appointed him as Ombudsman. Brian, we would like to hear from you.

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### BRIAN SAWYER

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Thank you very much, Art. There is a lot that I would like to share with you but as Art said, we are pressed for time. I have been most impressed in the last day and a half by the statements made by those who have been victims of crime. The police community has long been concerned that the system seems to place too much emphasis on the offender, the rights of the offender and the care and feeding of the offender, and we felt that there was a victim out there who was being ignored. It suddenly occurred to us however that we were talking about this situation, but we weren't doing very much about it. So last year, during the annual conference of the Canadian Association of Chiefs of Police, we set as our theme, the victim. We had three sessions specifically devoted to the victim. Don Sinclair spoke to us about the Task Force Report which had just been



released at that time. We established a panel and invited two victims, one from Calgary, and one from Edmonton, to relate to the assembled police chiefs the frustration that they had experienced. I also had the good sense to invite Marlene Young to come and speak. She was sensational. It was as moving an experience for those police chiefs as it has been for you these last two days.

The upshot of all this was that we established a committee of police chiefs, called the Victims of Crime Committee which I was asked to chair. I was given a free hand to bring in a number of police leaders from across the country to be on the committee, and I did just that. We don't have the facilities for regular meetings. We meet only once a year, but we have telephone conferences. We have put forward a police position on the Task Force report which states that we believe the primary need in this country is for guidelines; nationally established, but not mandatory guidelines that police agencies can follow in introducing local initiatives to care for victims. We felt that federal officials could compile a handbook and do a number of other things to help local police agencies learn about victims and how to assist them.

Our fourth recommendation was that the police should promote closer ties and communication within the system. One of the myths of the 70's and the 80's is that there is such a thing as the criminal justice system, and that just isn't so. There are a number of groups and organizations, each trying to do what they think is right and sometimes they come together, but just as often as not, they go in different directions. While there is no system, there is a need to try to bring the parts together, to overcome this lack of coordination, insofar as victims are concerned. There are in fact a number of initiatives going on in police agencies across the country. Vancouver, Edmonton, Calgary, Winnipeg, Hamilton-Wentworth, Oshawa, Durham, Timmins, London, Windsor, Quebec City, and Halifax all have programs of one kind or another.

We are great imitators in Calgary. We look at other successful programs and try to imitate them. I would like to tell you a little about what we are doing for victims because that is the program that I am most familiar with. Some years ago, we learned of the London, Ontario initiative in crisis intervention, and so we set up a crisis team of our own, to work with the police. We experienced difficulties initially, but I think we finally got the program on track. We have five crisis workers who usually work afternoons and evenings. When a police officer is called out to an offence where a victim has been traumatized; be it a domestic quarrel, assault, child abuse, sexual offence, suicide or homicide, the police officer can call in a crisis worker; someone who has the training, the background and most importantly, the time to spend with the victim right at the beginning when they are traumatized by the incident. So we are trying to bring these two people together – the crisis worker and the victim.



However, we can only get funding for five crisis workers and there is a lot of follow-up that needs to be done. We have therefore set up a victim services unit; a unit that constitutes three salaried employees and uses volunteers to follow up on cases referred either by the crisis workers or by the police officers, or by the victim services card (an idea we copied from Edmonton). Police officers are now required to leave a card with the victim which lists the officer's name and a file number so that victims can call the victim services unit to get information about their case. The single most common need among victims is information. They want to know what is going on and where they stand. A victim services unit can provide that information.

We have combined the crisis unit with the victim services unit to form one unit called the Victim Crisis Unit. There is a sergeant in charge and an inspector to administer the unit and several other programs. The reception that the Victim Crisis Unit received in the community has been overwhelmingly positive. In the beginning the reception among police officers, however, was not very positive. They saw it as yet another system or bureaucracy with which they would have to deal. It was essential to demonstrate senior administrative support for this process. Directives have therefore been issued by my office which attempt to explain in a gentle but firm way that this is the right thing to do. I think by and large, the police officers are beginning to understand the real need for this type of program.

We have developed training films which deal with the handling of the victim and which give the officers insight into the things that they should be doing. We have a fifteen minute video that deals with four types of victims and we use this at roll call before the officers go on duty. We also have a twelve minute video which deals with the handling of domestics; potentially the most dangerous call a police officer attends. We have a two man video team and they are doing marvellous work. I think video training is the way of the future. Government can use it to assist the police in acquiring new skills. It is a relatively inexpensive and convenient way of reaching the police forces across the province.

Apart from their value in humanitarian and moral terms, these initiatives are good politics. In this country which is essentially law abiding and peaceful, people in general are not afraid to go out on the street, and so they are very supportive of the police. When they have been victimized, they are angry, frightened and even traumatized. They need and deserve help and if we can establish a system which provides this assistance, they are going to support us. They are taxpayers and they help us to receive our budgets. From the politician's view point they are also taxpayers. They have a message to convey, which I believe the political elements of our society would do well to heed. So, I think that it is good politics, but above all, it is the right thing to do. We should help. Thank you.



The Honourable George Taylor, Ontario's Solicitor General, presented a keynote luncheon address.

## CHAPTER 8

# Third Keynote Address

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SPEAKER (MAY 8, 1984 – 12:30 P.M.)

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- THE HONOURABLE GEORGE TAYLOR, Q.C.  
SOLICITOR GENERAL, ONTARIO
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*The role of crime prevention in the victim justice movement . . . the need for federal action to tighten the operations of the National Parole Board . . . the police perception of a “revolving door” parole policy . . . proposed changes in law to improve victim justice . . . Ontario’s response to victims’ needs in the areas of policing, prevention, information and training.*

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GORD WALKER

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Our Guest Speaker is George Taylor. George is a lawyer by training. He hails from Hamilton, Ontario, and makes his residence in Barrie, which is, for those of you who do not know, a beautiful location on Lake Simcoe, about 100 km north of here. George was elected to the Legislature in 1977 and has served with distinction since then, having been re-elected in 1981.

In 1982 George Taylor was appointed Solicitor General for Ontario. As Solicitor General he has the responsibility for overseeing the operations of the Ontario Provincial Police as well as the Ontario Fire Marshall’s Office, the Ontario Coroner’s Office and a variety of in-house operations, including the Ontario Police Commission. Mr. Taylor has made a distinguished mark in the field of justice in his service as a lawyer over the years and his service as a member on the Justice Committees of the Legislature, particularly in his role as Solicitor General of the Province

of Ontario. It is a pleasure to introduce my friend and colleague, George Taylor.

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GEORGE TAYLOR

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Thank you, Gordon.

Ladies and gentlemen, distinguished guests at the Head Table.

I am pleased to have the opportunity to participate in this important forum and to express my appreciation on behalf of the Ministry of the Solicitor General for your attendance.

I would also like to commend my colleague, Gordon Walker, and the Justice Secretariat for initiating this Provincial Consultation on Victims of Violent Crime. To encourage an exchange of views and ideas among crime victims, criminal justice officials and victim justice specialists, is beneficial to all of us in government.

I especially like the emphasis on consultation.

Those of us in government look on forums such as this as a great learning experience. Ideas from such gatherings often prove to play important roles in the development of government policy.

Democracy, of course, is a partnership and it works best when governing authorities and members of the public work freely together in the exchange of ideas and mutual concerns of the issues that affect our lives.

This is particularly true in times of economic constraint when governments are striving to deal equitably with the many demands on the public purse that accrue in this complex age.

And I'm sure police chiefs around Ontario would be the first to tell you that co-operation from the public in such fields as crime prevention and victim assistance is critical as they utilize the resources available to them.

I want to say at the outset that the area of justice for victims of crime is one that has been too long neglected by many segments of our society, including government.

It is therefore tremendously encouraging to see the type of interest shown here and to know that citizens like yourselves across the province are taking an increasing interest in the plight of the victim.

As Solicitor General, I have said repeatedly to police organizations across this province that, in looking for new ways to utilize our resources, we have to look to the general public for help and encourage increased citizen involvement.

And more and more of our citizens are coming to realize how important the word "public" in "public safety" is.

Let me use as an illustration the increasing grass roots movement by members of the public with respect to the problem of drinking and driving. Many of us have never considered that to be an area of criminal concern in our justice system.

Now, more and more of our citizens are coming to regard the actions of some drunk who uses an automobile as a three ton missile of death and destruction as reprehensible criminal action.

No public safety threat is more serious than the one posed by the drinking driver and no area of criminal activity — and make no mistake about it, drinking and driving is a criminal activity — has left more victims, or caused more anguish.

The number of injuries and deaths caused by drinking drivers has grown each year until now when it accounts for more than 50 per cent of all driver deaths. Traffic accidents are the fourth leading cause of death in Canada. It is the *Number One* killer of people under the age of thirty.

Every day in this province, according to our statistical analysis, two people will die in vehicle accidents in which alcohol is involved. Eighty-one more will be injured, some maimed for life.

Reflect upon that for a moment, and consider the number of victims of crimes involved, including families, who have to bear and share the anguish.

Surely, faced with all these realities, there can be no question that the tragedy caused by drinking and driving is quite simply unacceptable in a society such as ours. None of us should be willing to tolerate such an enormous waste.

Let me quote from the report of the Task Force on Drinking and Driving convened by Premier Davis last year: "Rather than any single approach, a community-based effort will enable us to tackle the problem on *all* levels — law, education, conventional and alternative sentencing, rehabilitation programs, communications, while one of the most powerful forms of persuasion, peer pressure, acts as a constant reinforcement."

More and more of our citizens are aware that the key to overcoming this serious problem is a permanent change in public attitude to make drinking and driving firmly unacceptable behaviour.

Citizens' groups such as PRIDE — People To Reduce Impaired Driving Everywhere, and ADD — Against Drunk Driving — are making invaluable contributions as they help to educate their fellow citizens to the problem.

Well, how does all this relate to victims of violent crime? I submit, very directly, as with all crime prevention programs, reducing the criminal activity reduces the number of victims. And the fewer victims we have to deal with, the more time we have to address ourselves to helping the remainder of society.

Still, the system has far too often failed to recognize the special needs and problems of victims of crime — the battered wife or child, the older couple bilked of life savings through some fraudulent scheme, the victim of robbery or theft.

That is why the growing movement to change the way in which we



deal with victims of crime — the movement for victim justice — is so encouraging to all of us.

Victim justice can be defined quite simply as a principle that the victims of crime have rights that should be considered and victims should be treated with the same importance as the accused.

None of us can say that has been the case in years past. Justice should not be blind when it comes to the consideration of innocent victims.

All of you know that the offender has been at the centre of attention in our justice system. Because of the democratic principle that at trial, a person is innocent until proven guilty, the offender's rights and legal needs are well protected. This is how it should be in a democratic society such as ours.

But the victim's rights should not get lost in the shuffle, either.

More needs to be done at the federal level. Revising the parole regulations, for example, so that violent offenders aren't turned loose on society having served only a fraction of the sentences imposed.

As Chief Law Enforcement Officer of the Crown, I can tell you that police officers in Ontario are becoming more and more frustrated at the number of violent and hardened criminals who are being paroled, after serving only a minor portion of their sentences. Some police officers call it a "revolving door policy" and it can have a detrimental affect on the morale of dedicated police officers in our province.

The public have become increasingly alarmed at the parole policy of the federal government and rightfully so. I would remind our counterparts that justice must not only be done, but must be seen to be done. The entire system of justice falls into disrepute when the public perception is of an inequitable parole system. And our police should not be handicapped further by the release of violent, dangerous criminals.

All of us taxpayers are victims of crime, by the way. The taxpayer must also bear additional costs, as victims of theft, fraud, vandalism, arson, criminal negligence — I could go on and on.

For many of our citizens, it is indeed a Catch 22 situation. They pay for a fair trial, incarceration and hopefully, rehabilitation. They pay for the losses or damages caused by the offender.

No one can accurately say what those damages and crimes cost all of us every year. But Canadian profits in the field of organized criminal activity alone have been estimated at more than \$9 billion by the Criminal Intelligence Service of Ontario — one of our most effective police organizations.

Over the past few years, the Ontario government has been prodding the federal government and initiating our own programs in order to upgrade the field of justice for victims.

Federal Justice Minister Mark McGuigan has already suggested changes in the law including a greater emphasis on victim restitution, prompt

return of stolen property and the introduction of a victim impact statement to be considered by judges at the time of sentencing.

Be assured that we are moving ahead in Ontario as well. The government has committed \$4 million to ensure the continuation of shelters across the province for victims of domestic violence.

On the same topic, you may be aware of directives from myself and the Attorney General to police and crown attorneys regarding investigation and prosecution of perpetrators of this odious crime.

Pilot projects have been initiated which establish victim/witness programs to help victims both understand and cope with the justice system.

We have taken steps to better inform the public of the availability of the Criminal Injuries Compensation Board, which pays compensation to the victims of physical injury. Information is available in a number of languages. Some may say that isn't enough, but it is a start.

Again, in the Ministry of the Solicitor General, we are moving to ensure that police officers are better equipped to deal with the questions and concerns raised by victims of crimes by providing courses at the Aylmer Police College.

This entails the revision of courses at the Aylmer Police College where most of our officers receive some of their training and the preparation of guidelines to assist the police in helping crime victims.

You have heard that we consider crime prevention to play an important initial role in that it reduces the number of victims.

This, of course, entails the close co-operation of the public for such programs as Neighborhood Watch, Crimestoppers and a number of initiatives aimed at our young people.

The Ontario Provincial Police, for instance, have already made more than 6,000 visits to Ontario businesses including variety and milk stores, outlining initiatives to be taken in order to reduce crime.

An officer of the Ontario Police Commission has been appointed to oversee crime prevention programs for the ministry and a senior officer of the Ontario Provincial Police has been appointed to initiate and oversee victim assistance initiatives on behalf of the Solicitor General.

As an example, we have initiated police-oriented victim assistance in four Ontario cities as a pilot project which we can expand into other areas of the province if it proves its effectiveness.

Police officers on these forces — Waterloo Regional, London, Hamilton-Wentworth and Timmins — are participating. They have been issued pamphlets entitled "Help For Victims — You Are Not Alone" — and these are being distributed to victims of crime by the investigating officers.

The pamphlet has a space to contain the investigating officer's name, badge number, police department telephone and the file case number of the occurrence to make it easier for the victim to get information about his case.

It also contains space for Contacts which may be of service to the victim such as the Salvation Army, Children's Aid Society or the Sexual Assault Crisis Centre.

The pamphlet also explains that the victim's needs are a major concern to the police officer in addition to his responsibilities to enforce the law.

It reads in part: "In the upset that follows a crime, it is important that you know what services are available to you. Feel free to ask your investigating officer or your police force for help. Help is available — whether it deals with a physical or emotional problem or the need to repair a door or window, finding the place to spend the night, getting legal advice or taking care of lost personal papers."

Help. That is the foundation of the initiatives undertaken by the Solicitor General's ministry. Charged as we are with overseeing the area of public safety and the activities of 18,000 of our most dedicated citizens — our police officers — we must provide help for the innocent victims of crime.

That, after all, is the initial step in any true system of justice. And it is what the police who serve us do surpassingly well.

I wish to emphasize that the Ontario government is committed to the cause of victim justice, but we can only make it effective with the support of all of our citizens.

In this area, as in other areas of our democratic system, there *has* to be a partnership. So I urge you to continue your interest. Make suggestions, offer constructive criticism, prod all levels of government, and things will change for the better. Together we can ensure that all victims of crime get the justice they deserve.

I hope this has been informative. If later today, when we meet with you, you have any further comments or questions, we'd be delighted to discuss these issues. Thank you very much for this opportunity to speak to you.

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GORD WALKER

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Thank you George. We appreciate your comments and your support with respect to the matter of victim justice. I'm sure everyone here today shares a variety of your thoughts, keeping in mind of course, that the people with whom you are directly connected, both in terms of the Ontario Provincial Police Force and the various police officers all across the province, are probably the first ones, certainly in any official way, to encounter victims. They play a substantial role in victim justice and we appreciate that you are a great supporter of the concept of victim justice.

We will have an opportunity, as you have mentioned, to hear more from you later today. The Cabinet Committee meeting will be convened at four o'clock and at that time I hope that all of the appropriate spokespeople will present, in clear and concise messages, exactly what you would like

to convey to us. That will be a good opportunity for submissions and we invite you to make a contribution. In the concurrent workshops this afternoon it is important that you focus your recommendations as best you can. It is sometimes difficult, of course, but try to focus your thoughts on recommendations that can be acted upon by government. We would appreciate it.

Again, George, thank you for your help today. The luncheon is adjourned.





## CHAPTER 9

# Concurrent Working Groups

*The four Concurrent Working Groups identified for the Consultation examined issues relating to police and crisis services, compensation and financial support, victim participation in the justice system and violence prevention. Each group was coordinated by a chairperson, whose function was to lead discussion, introduce special speakers and assist in moving towards consensus in the group discussion and final recommendations. Rapporteurs assigned to each group provided the conference with highlights of the discussion and a summary of the recommendations at the final plenary session.*

*The Working Groups met three times during the Consultation. The first meeting took the form of a panel presentation and discussion on the questions of victims' needs and concerns in each area. The second meeting focussed more on possible solutions, based on the initial problems identified and input from the opening sessions. In the third meeting, groups were asked to concentrate on refining their recommendations for presentation to the Cabinet Committee on Justice during the final session. This chapter highlights the objectives, main issues and discussion arising from each of the Working Groups. The recommendations are presented in Chapter 10.*

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### A. POLICE AND CRISIS SERVICES

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#### **OBJECTIVE:**

To examine the ways police and community agencies work together to assist victims immediately following the crime.

### *SYNOPSIS OF ISSUES:*

What are the needs of victims and their families for assistance from the police and from community helping agencies? How does this vary by type of crime, personal situation or geographic location? What are the ways police forces respond to victims now? Which community agencies provide support for victims? How easy is it for victims to link up to these services?

What could police forces do to improve their response to victims? Is the Edmonton approach workable in more police forces in Ontario? How can services be funded? Can victim assistance be an equal priority with law enforcement? Will this improve public support for police agencies?

How can community agencies improve their support for victims? Could "victim assistance centres" be created in all cities in Ontario to (a) help victims obtain the services available, (b) train police, hospital and community workers, and (c) promote public awareness of the needs of victims?

### *RESOURCE PERSONS:*

- MR. ROD McLEOD, Q.C., DEPUTY SOLICITOR GENERAL, ONTARIO (CHAIRPERSON, MAY 7)
  - SUPERINTENDENT FERN SAVAGE, DIRECTOR, COMMUNITY SERVICES BRANCH, ONTARIO PROVINCIAL POLICE (CHAIRPERSON, MAY 8)
  - SGT. GARY DEALY, COMMUNITY PROGRAMS DIVISION, METRO TORONTO POLICE DEPARTMENT. (RAPPORTEUR)
  - MRS. PAT SULLIVAN, CANADIAN CRIME VICTIMS ADVOCATES, AJAX, ONTARIO
  - CONSTABLE DAVID GELDERT, VICTIM SERVICES UNIT, EDMONTON POLICE DEPARTMENT.
  - CHIEF BOB McEWEN, CHIEF OF POLICE, SAULT STE. MARIE, ONTARIO
  - MR. PAUL SONNICHSEN, NATIONAL CONSULTANT, CRIME VICTIMS, DEPARTMENT OF THE SOLICITOR GENERAL, CANADA
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### *SUMMARY OF DISCUSSION:*

The Chairperson, Rod McLeod, opened this workshop by stating that, in his view, the area of victim assistance is one of the most important issues facing the police and community in Ontario. Mr. McLeod added that understanding the needs of the victim, and the provision of services for those needs are primary responsibilities and important goals for police throughout the province.

Pat Sullivan, mother of a young victim of violent crime presented her first-hand experiences with crime-related trauma and family crisis. In her presentation, Mrs. Sullivan made reference to a letter that her husband

had written to the police after the murder of their daughter Pamela in 1981. The letter stressed the need for training of Police Officers as to the "needs of victims in death notification". Mrs. Sullivan also stressed the importance of informing families of the cause of death prior to the release of the information to the media. Some of the other needs identified by Mrs. Sullivan were:

- Relatives should never be told in isolation; Police should seek help from the community or churches in the area.
- Relatives should be given a list of any property the victim had on his/her person.
- Search of the victims' residence should be conducted in an orderly fashion.

Constable David Geldert outlined the Edmonton Police Force's Victim Services Unit. This unit achieved international recognition by the award in 1983 from the U.S. National Organization for Victim Assistance for its police-based victim services. The Unit services more than 2,500 victims per month, trains patrol officers and ensures that victims obtain community services. In its first year, its "reverse miranda card" doubled the number of applications for victim compensation.

Constable Geldert stressed the need for notification of victims on court and police procedures, the status of their cases before court, and the quick return of their property. In addition, the Unit has an extensive volunteer component which provides personal visits to victims to establish their needs, concerns, and referrals to other agencies. For a more complete account of the Victim Services Unit, please refer to Appendix C.

Police Chief Bob McEwen, Vice-President of the Ontario Association of Chiefs of Police, expressed the concerns of the Association and their commitment to help victims of crime. Chief McEwen emphasized the needs of victims for immediate counselling at the time of the crime. He also viewed the secondary victim (the family itself) as a major concern.

This workshop reached consensus in supporting several of the recommendations of the Canadian Federal/Provincial Task Force on Justice for Victims of Crime, namely, Recommendation 25 (General Services for Victims) and Recommendations 61, 62 and 63 (Information and Services for Families of Homicide Victims).

### *NEEDS IDENTIFIED:*

- Extensive training at the recruit level with respect to death notification and next of kin.
- A Protestant or Catholic padre to be on call by the police force to assist in death notification.

- Personnel with the police force to be identified to assist available outside agencies.
- Ensure the police notify the next of kin of any further press releases after the initial release.
- Sensitize police officers to victims who are also witnesses in, for example, rape or sexual assault cases.
- Use female police officers where possible in sexual assault cases or use outside agencies during the investigation.
- Police forces to employ outside counsellors with a knowledge of community resources to assist in investigations. The three approaches identified were:
  - train all the police officers to be sensitive;
  - have a special unit attached to the police force; or
  - refer to outside agencies.

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## B. COMPENSATION AND FINANCIAL SUPPORT

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### *OBJECTIVE:*

To examine the operations of the Criminal Injuries Compensation Board in Ontario and other sources of financing for victims and to develop specific recommendations for improvements.

### *SYNOPSIS OF ISSUES:*

What are the needs of victims and their families for financial support after a crime? How does this vary by type of crime, personal situation or geographic location? What are the sources of financial support for victims of crime in Ontario? How easy is it for victims to claim the financial support to which they are entitled? Is the financial support available comparable to that for victims of other misfortunes?

What are the merits and limitations of the Criminal Injuries Compensation Board (CICB) in Ontario? Why do only one thousand of the 50 thousand victims that are eligible in Ontario apply to the CICB? How can victims find out about the CICB and can the police do more? Could victims in Ontario receive awards as large as those in other provinces (e.g. awards in Quebec are several times larger than awards in Ontario)?

What social assistance can victims claim in Ontario? Is there a need for improvements, given the trauma of crime? What is the role of the police in linking victims to these programs?

What is the role of insurance in providing financial support for victims' injuries and property losses?

### *RESOURCE PERSONS:*

- MISS STEPHANIE WYCHOWANEC, Q.C., DEPUTY PROVINCIAL SECRETARY FOR JUSTICE, ONTARIO. (CHAIRPERSON)
  - MS BONNIE FOSTER, ASSISTANT DIRECTOR, CENTRAL REGION, MINISTRY OF CORRECTIONAL SERVICES, ONTARIO. (RAPPORTEUR)
  - MRS. ELSIE OBERT, VICTIMS OF VIOLENCE, INC., DRUMBO, ONTARIO
  - DR. LEROY LAMBORN, PROFESSOR OF LAW, WAYNE STATE UNIVERSITY, DETROIT, MICHIGAN
  - MR. ALLAN GROSSMAN, CHAIRMAN, ONTARIO CRIMINAL INJURIES COMPENSATION BOARD
  - DR. MICHELINE BARIL, ASSISTANT PROFESSOR OF CRIMINOLOGY, UNIVERSITY OF MONTREAL, MONTREAL, QUEBEC
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### *SUMMARY OF DISCUSSION:*

In her opening remarks, Stephanie Wychowanec noted that technically, there are a number of avenues whereby the victim can obtain restitution and compensation. These include reparation or restitution in the context of sentencing; launching a civil action for damages; applying for compensation from a government funded scheme; or relying on some form of insurance – either public or private, or a welfare plan. The victim of a crime, however, has no claim to the proceeds of the fines, imposed as punishment for an offence. Under the Criminal Code, proceeds of fines, penalties and forfeiture are mostly paid to the Provincial Treasury. While these remedies exist, regrettably they are not well known, and not extensively used by victims of crime.

Restitution, or reparation, is a remedy available to victims of crime in Canada through the criminal process. The goal of restitutionary programs, is to make the offender responsible for reimbursing the victim for the damages caused by the offender's conduct. While this is a very appropriate sentence where theft, vandalism, break and enter and other property offences and robberies are concerned, it is more difficult to apply to crimes of violence against the person. Under the Criminal Code, a victim may apply for restitution at the time sentence is imposed, however, there are some judicial difficulties in relation to this remedy, quite aside from the fact that many people are not aware of its existence.

Miss Wychowanec also pointed out that civil action for damages may be available in theory but may be practically inappropriate if the accused has no assets and no means of paying the judgement once it is obtained.

The major societal response to victimization is the victim compensation fund. Compensation involves payment of money from public funds in order to repair or alleviate the losses of victims of crime. Compensation under these funds is not available to victims of crime as a right; whether or not a particular victim recovers depends on the discretion exercised by the Boards that administer the compensation plans.



In this workshop, three panelists gave presentations on the issue of compensation from the point of view of a victim, academia, and the government. Elsie Obert, a victim of crime when her daughter was murdered in 1979, identified many of the concerns victims have in this area, by relating her personal experiences in obtaining information about legal aid, access to compensation and particularly about the Criminal Injuries Compensation Board. She noted that the information she did receive came not from the criminal justice system, but from the Victims of Violence self-help group. Mrs. Obert also discussed her financial needs in terms of the extensive legal expenses incurred by a child custody suit subsequent to the crime and the necessary child care expenses.

Professor Leroy Lamborn of the Law Faculty, Wayne State University, then presented some of the results of his studies on victim compensation policies, including those of the Ontario Criminal Injuries Compensation Board. Professor Lamborn, the author of numerous publications on victim compensation programs and the role of the victim in the legal process, has appeared as a witness before the U.S. Presidential Task Force on Victims of Crime. Based on clearly articulated victim needs in Canada and the USA, Professor Lamborn made a number of suggestions for changes in criminal injuries compensation in Ontario, including the following:

- increase publicity by police and other part-time services about the Compensation Board's program;
- increase the upper limits of awards in Ontario;
- the rationale for the denial or reduction of awards should be reported;
- the inclusion of awards for property loss or damage;
- consideration of coverage for victims of traffic offences;
- consideration of awards for bereavement for close relatives of homicide victims and psychological counselling for relatives of homicide victims and for sexual assault victims;
- provision for emergency or interim awards;
- reduction of delays in settling claims;
- provision of services to meet the non-financial needs of victims;
- recognition of the proper role of the victim in prosecution (impact statements, Victim's Bill of Rights);
- Special assessments (surcharges) paid by offenders to fund victim compensation; and
- consideration of New Zealand's Accident Compensation Board, which combines crime victim compensation with accident compensation.

Mr. Allan Grossman presented a comprehensive review of the philosophy and operation of the Ontario Criminal Injuries Compensation Board, and also summarized the positive record of the Board in recent years. Mr. Grossman noted that the Board recognizes that, quite apart from the awarding of financial compensation, a significant and positive benefit is the opportunity for the victim to be part of a forum where the victim is the focus of attention. It was noted that last year the Board paid out \$3.2 million, a 17% increase over the previous year.

On the second day of the Consultation, this workshop was addressed by Micheline Baril, Ecole de Criminologie, Universite de Montreal, who presented her views on improvements that might be made in Ontario's compensation system. Dr. Baril is the founder of "Plaidoyer-Victims", a Quebec organization for victim assistance, and the author of many publications on crime victim issues, including the effects of robbery on victims and the evaluation of criminal injuries compensation programs. Based on her extensive knowledge of the Quebec Compensation System, from the standpoint of both a researcher who has evaluated that system, and a service provider who uses the system, Dr. Baril spoke of the need for a right to reparation, the sharing of responsibility for reparation, and the need for ongoing funding to meet victims' needs. For a summary of Dr. Baril's ideas, please refer to Appendix D.

### *NEEDS IDENTIFIED:*

In addition to the concerns raised by the panelists, this workshop also identified the following needs:

- Particular offenses may have differential effects based on culture; cultural factors should be taken into consideration in awarding compensation.
- Resources are disproportionately committed to offender programs as compared to victim programs; there is a need for some realignment in resource allocation.
- Victims can incur significant legal fees in making representation to the C.I.C.B.; this factor should also be taken into consideration in determining the award.

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## C. VICTIM PARTICIPATION IN CRIMINAL JUSTICE

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### *OBJECTIVE:*

To examine the ways in which the legal community does respond, and could respond, to victims in the criminal justice process.

### *SYNOPSIS OF ISSUES:*

What are the needs of victims and their families for participation in criminal justice? How does this vary by type of crime, personal situation

or geographic location? How do victims participate in criminal justice in Ontario? Are they adequately informed about the police investigation, arrest and return of property, the scheduling of court cases? Do they have adequate access to the court for restitution? Could victims address the court on the harm done, their concerns about release or rehabilitation?

How can witness services be improved – telephone alert systems; more than \$7.00 for an appearance; reception units? Are prison sentences for non-cooperative witnesses, better than video-taped evidence? What can be done to improve the use of restitution – victim impact statements, rights of victims to request restitution?

Could the victim be given the right to participate and present views at all critical stages in the criminal justice process? Can better training of the legal community on the needs of victims achieve the same goals? Could Canada adopt legislation such as that of the *Partie Civile* in France or the right to oral statements in some U.S. jurisdictions?

#### *RESOURCE PERSONS:*

- MR. MICHAEL MARTIN, Q.C., REGIONAL CROWN ATTORNEY, LONDON, ONTARIO. (CHAIRPERSON)
  - SUPT. PHIL CANEY, DIRECTOR, POLICY DEVELOPMENT, MINISTRY OF THE SOLICITOR GENERAL, ONTARIO. (RAPPORTEUR)
  - MAJOR DAVID NAIRN, VICTIMS OF VIOLENCE, INC., NEPEAN, ONTARIO
  - MR. JOHN FEINBLATT, DIRECTOR OF COURT SERVICES, NEW YORK CITY VICTIM SERVICES AGENCY
  - MR. DON EVANS, EXECUTIVE DIRECTOR, COMMUNITY PROGRAMS, MINISTRY OF CORRECTIONAL SERVICES, ONTARIO
  - MS. CATHERINE KANE, COUNSEL, POLICY PLANNING, DEPARTMENT OF JUSTICE CANADA, OTTAWA
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#### *SUMMARY OF DISCUSSION:*

In a panel presentation to this workshop, Major David Nairn of Nepean, Ontario, the father of a murder victim, directed the group's attention to his experiences and involvement with the justice system since his daughter's death. He stressed the need for accurate information for families of crime victims and decried the practice of excluding close relatives of victims from murder trials through defence subpoenas.

Mr. John Feinblatt of the New York City Victim Services Agency described the services this agency has been providing since 1976 and the legislation developed in New York State to protect the rights of crime victims. The agency is the largest and oldest victim assistance centre in the world. On its inception, the agency's witness scheduling program saved the City of New York more than \$8,000,000 in police overtime. The agency provides special reception areas with babysitting, community

offices to help victims obtain welfare, recover their property and adjust to emotional trauma.

Don Evans of the Ministry of Correctional Services then addressed a number of issues in the area of restitution, and community corrections programming. Many of the issues appropriate to the topic of victim participation are summarized in the paper presented by Catherine Kane, at Appendix E. Ms. Kane is a specialist on legal issues relating to victims and has provided advice on the proposed amendments to the Criminal Code (Bill C-19), which propose both restitution and punitive charges payable to the victim, new dangerous offender provisions and a written victim impact statement.

Discussion centred on the frustration victims often face in trying to be heard in the context of the criminal justice system. Victims of crime want the same rights as the accused. They want their rights and feelings to be considered by the appropriate persons in authority throughout each stage of the process.

Victims want status, e.g. proper use of victim impact statements, a feeling of being represented and belonging within the context of the criminal justice system.

The major concern the victims indicated throughout this seminar was their need for proper and timely information.

They want to be apprised of what is taking place during the police investigation, as well as being kept informed and consulted at each stage of the process.

Victims want to establish a Victim Advocate System to at least give them on balance a position of status equal to the accused. This system should be funded by the Provincial Government. The Victim Advocate System once in place and with appropriate ongoing funding would help to give victims the sense of status that is missing at the present time.

If victims have status and are treated with dignity, others are more likely to come forward and not drop out of the system. A perception of caring for the victims of crime should greatly enhance the criminal justice system.

### *NEEDS IDENTIFIED:*

The following areas of need were identified:

- (a) Improved flow of information, to keep victims informed.
- (b) Trauma counselling.
- (c) Property returned.
- (d) Witness preparation.
- (e) Use of the same Crown Attorney throughout the process.
- (f) An end to the practice of defence counsel serving subpoenas on members of the victims' family to keep them out of court.
- (g) Crime prevention information from the police.

- (h) The police to ask the victim what he wants from the criminal justice system.
- (i) Victim impact statement to be received from the victim by the police to be attached to the police report. This can be used by the Crown Attorney at the bail hearing. The statement must be updated until the time of sentencing.
- (j) Victims to have appropriate information and documentation for employers in order to free them for court appearances.
- (k) Transportation to court.
- (l) Child care if needed.
- (m) Representation to court officials for restitution.
- (n) If any damage to property at the time of the offence, funding to the victim to be provided by the Victim Advocate System.
- (o) Explanation of the criminal justice system so the victim understands the process.
- (p) Need to be advised of the resources available to them for assistance during this difficult time.
- (q) Consideration for the victim's safety and security throughout the process.

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#### D. VIOLENCE PREVENTION

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##### *OBJECTIVE:*

To examine the ways in which the desire for offenders to commit violent acts, as well as the opportunities for such acts, can be reduced.

##### *SYNOPSIS OF ISSUES:*

What are the needs of victims and their families for protection? How does this vary by type of crime, personal situation or geographic location? What are the approaches of social services, schools, the media and recreation to reducing the potential for violence? What programs are available to prevent crime through opportunity reduction? What programs of the correctional systems and mental health agencies may reduce violence through separation or rehabilitation?

Can we identify dangerous offenders? Can potentially dangerous persons be identified, when they enter school? Can we reduce violence by modifying violence on TV and promoting "positive parenting"? Does child abuse lead to violence and can it be reduced? Could a task force develop precise recommendations?

Is the sentence of the court to protect society or the victim? Is it to provide vengeance by the state? Does it assist the victim in adjusting to the loss? How can victims be helped to feel protected?



### *RESOURCE PERSONS:*

- MRS. RUTH M. CORNISH, SENIOR POLICY COORDINATOR, PROVINCIAL SECRETARIAT FOR JUSTICE, ONTARIO. (CHAIRPERSON)
  - MS. FRANCES B. PENDRITH, SENIOR POLICY ANALYST, COORDINATOR, FAMILY VIOLENCE PREVENTION, MINISTRY OF COMMUNITY AND SOCIAL SERVICES, ONTARIO. (RAPPORTEUR)
  - MS. LORRAINE BERZINS, CRIMINAL JUSTICE CONSULTANT, OTTAWA, ONTARIO
  - DR. ELLIOT BARKER, PSYCHIATRIST, PRESIDENT OF THE CANADIAN ASSOCIATION FOR THE PREVENTION OF CRUELTY TO CHILDREN, MIDLAND, ONTARIO
  - SGT. JACKIE HOBBS, COMMUNITY PROGRAMS DIVISION, METRO TORONTO POLICE DEPARTMENT
  - DR. FRANK PORPORINO, SENIOR RESEARCH OFFICER, RESEARCH DIVISION, PROGRAMS BRANCH, SOLICITOR GENERAL, CANADA
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### *SUMMARY OF DISCUSSION:*

In this working group, participants had a wide variety of backgrounds and interests in prevention. Their objectives for the working group meetings could be divided into two streams: crime prevention and early detection and treatment of psychopathy.

Specific interests of the group included:

- the influence of sentencing and the parole system;
- clarification of the role nurses could take in prevention;
- the social policy aspects of prevention;
- the deterrence of drinking drivers;
- prevention services to victims of crime;
- how to reach out to people who are victims and offenders;
- learning more about preventing sexual abuse and child abuse;
- learning about problems facing assaulted women;
- crime prevention through public education;
- changing a criminal justice system which contributes to crime.

Ms. Berzins, who was taken hostage several years ago by an inmate in a federal penitentiary and nearly killed, focused on the needs of the victim. She reported on an eighteen month study based on transcripts of violent offenders and consultations with professionals in the area of violent behaviour.

The characteristics of dangerous offenders were described and the following observations presented from the study:

- In order to treat the offender, professionals should look at dangerous situations rather than dangerous people.
- We must learn more about the nature of violence and the role of life stresses.
- Many violent offenders seem to like prison and we must study why this is so.
- We must target our interventions on the offender, on his living environment and on our values which permit approval of some forms of violence over others.

Ms. Berzins raised the notion of personal reconciliation, rather than revenge, as the only healthy way for victims to adjust. For a complete account of Ms. Berzins' comments, refer to Appendix F.

Dr. Barker then outlined his intensive experience with the treatment of adult, criminally insane offenders in Penetanguishene. Dr. Barker has studied the development of psychopathy, and believes that our approach to parenting and television are the keys to preventing the tragedies of criminal violence. He has concluded that:

- by the time a child is six years old it is far too late to intervene in the development of psychopathy;
- the environmental groundwork, for psychopathy, aided by a predisposition (chemical and/or biological), is laid in the first eighteen months of life;
- the psychopath lacks three essential elements: the capacity to *trust*; the capacity to give and receive *affection*; the capacity to feel *empathy* for others;
- the psychopath has not integrated trust, affection and empathy at the critical stage in childhood in the first place; there is nothing within to treat at a later stage; i.e. they become untreatable;
- psychopathy is responsible for the major portion of personal crime.

Dr. Barker made the following recommendations:

- To examine the role of inadequate parenting; we now have a value system which rewards treating people as objects and this contributes to the development of violent adults.
- Because we cannot identify potentially violent adults in early childhood, we must improve standards of child care.
- We should assist parents to respond to the child's need for warmth and affection.
- We must raise the status of parenting so that trust, affection and empathy are learned appropriately.

We must start to reward prevention in society rather than support intervention with "breakdown" products.

Sgt. Jackie Hobbs described a number of Metro Toronto Police programs which were designed to prevent further crime. She noted that integrated family prevention programs are preferable to singling out a particular target group, (e.g. the elderly).

Police function in a number of community roles which offer personal contact with citizens: Community Relations Officer; the Ethnic Squad; Traffic Safety; Victim Assistance; R.I.D.E. Program; security of homes; protection of seniors; Block Parents and the Neighbourhood Watch Program.

Current programs of the Metro Police are:

- Domestic Response Team offers combined social work and police response to family crisis.
- Metro Toronto Task Force on Sexual Abuse of Children has developed protocols and as of January 1, 1984 has provided a joint interview of the child by police and social workers.
- Victim Assistance Program provides information and referral services.
- The Salvation Army will be expanding in Metro Toronto to provide a crisis service, a volunteer community program located in police stations.
- Training for police officers in victim assistance takes place in the police college; each officer is provided with updating, training and information. In addition, crisis intervention and response to sexual assault courses are given.

### *NEEDS IDENTIFIED:*

This workshop identified a number of needs during the Consultation. These may be summarized as follows:

- need for a study on the relationship of pornography and violence;
- need for a holistic approach to treatment using the following approaches: phalometry, cognitive, neurological, chemical, nutritional elements of violence;
- need to educate society about the crucial role of effective parenting: i.e. through media campaigns;
- eliminate arbitrary male dominance and the effects of power on women;
- need of each profession to study its role in the treatment of the offender;
- recommendations arising from a variety of task forces and committees should be implemented; e.g. change of the parole system:

- parole boards do not have meaningful reports;
- there is a general lack of programming to prevent violence; politicians should be pressured to initiate them;
- policy clarification is needed about the role of prisons in Canada (rehabilitation or punishment);
- a comprehensive plan is needed to address the problems in Ontario prisons and in Federal prisons;
- funding priorities need to be set (offenders vs. victims, punishment vs. rehabilitation);
- sentences do not fit the degree of violence; (e.g. drinking and driving sentences are too short);
- cost of reprocessing repeaters is very high, but how do we fairly sentence violent recidivists when the highest recidivists are property offenders;
- we must make a rational program-related connection between the offender and the victim in the court system; we must also educate the young about the effects of their violent behaviour on others;
- separate violent and non-violent prisoners;
- compulsory restitution to victims, from offenders, through legislation.

## CHAPTER 10

# Concluding Session

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PANEL (MAY 8, 1984 – 4:00 P.M.)

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- THE HONOURABLE GORD WALKER, Q.C.  
PROVINCIAL SECRETARY FOR JUSTICE (CHAIRPERSON)
  - THE HONOURABLE ROBERT ELGIE, M.D.  
MINISTER OF CONSUMER AND COMMERCIAL RELATIONS
  - THE HONOURABLE NICK LELUK  
MINISTER OF CORRECTIONAL SERVICES
  - THE HONOURABLE GEORGE TAYLOR, Q.C.  
SOLICITOR GENERAL
- 

*In this session, representatives from each of the four Concurrent Working Groups presented the recommendations from their workshop discussions to the Ontario Cabinet Committee on Justice. An opportunity for individual submissions or comments from the floor was provided, and members of the Cabinet Committee on Justice, or their deputies responded. The Consultation concluded with a summation of the proceedings by the Honourable Gord Walker, Provincial Secretary for Justice.*

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### A. INTRODUCTION OF CABINET COMMITTEE ON JUSTICE

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#### GORD WALKER

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Ladies and Gentlemen, with me here is the Cabinet Committee on Justice, and several people who will be introduced to you in a few minutes. In particular, I would like to introduce to you the Honourable Nick Leluk, beside me, who is the Minister of Correctional Services, and next to him, Dr. Robert Elgie, Minister of Consumer and Commercial Relations. To my right is a vacant seat for the moment. The Honourable George Taylor,



who is the Solicitor General and the Acting Attorney General, and who, because of the unfortunate incident in the Quebec Legislature today, is meeting at this moment on matters of security in the Legislature, will be joining us forthwith.

We have delayed a bit pending Mr. Taylor's arrival. We expect Mr. Taylor soon and he will at that time be in the best position to judge the comments about the first of the reports to be received. For that reason, I am going to suggest that Item #1 stand down pending his arrival and that we move to Item #2. What I am proposing to do at this particular hearing is to receive from the rapporteurs the submissions of the four Concurrent Working Groups in the order of Numbers 2, 3 and 4, as identified on your agenda and, when Mr. Taylor arrives, #1, wherever it conveniently fits in, as it related directly to the police.

At the end of the submissions by the rapporteurs, I would like to suggest that we receive direct submissions from individuals who may feel that they have further points to make. We have attended enough committees to know that you cannot always achieve a consensus. That certainly could not be the case with such a diverse group of people as are gathered today and I would not like to think that we are trying to insist on consensus here. Our purpose in seeking consensus was to distill and reduce the amount of comment that we would hear today. That, I think, is a valid approach, recognizing however, that afterwards, there may be some very individual comments that should be made by those who wish to make a direct presentation. When the rapporteurs have finished, I would suggest that individuals who wish to make a submission let me know, or perhaps they can let Mrs. Cornish know – she's over by the podium now – and she can formulate a list. I would appreciate it if you would restrain these comments to just two or three minutes.

It has been an historic moment from our point of view. The victim justice movement has been around for a long time, and the Ministers, both present and absent, as part of the justice field, have long felt the interest in victim justice. This conference is of particular importance because we are now reviewing our response to the Federal-Provincial Task Force. The Task Force presented its 79 recommendations last June and we have been considering the recommendations for the past six or seven months. It is therefore important, before we finalize our own thoughts, that we have the kind of input that is available from the meetings of today and yesterday. So far, I think all of us have been deeply impressed by the submissions that have been made, and particularly those made by the direct victims of crime. They are helping to shape our own thought processes and I am sure that they are shaping the thoughts of so many of you in this room. It has been an eye-opener for all of us and we cannot help but be better off as a result of the presentations and, I feel, the proposals that will come forward now. So in light of that, if we could turn to Item #2, – Compensation and Financial Support. The rapporteur

is Bonnie Foster, Assistant Director, Central Region, for the Ministry of Correctional Services.

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## B. WORKING GROUP RECOMMENDATIONS

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### BONNIE FOSTER

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Thank you. We had a very wide-ranging and often lively discussion, probably prompted in part by the fact that Mr. Grossman was a member of our group as well as a resource person for it yesterday. We came up with a lot of ideas, a lot of thoughts and tried to narrow those down into four major recommendations that we thought would have the most meaning and the highest priority for you and for us. Therefore, our first recommendation does really underline all of our discussions, and is applicable to all of the groups: the need for increases in funding.

In view of the need for increases in funding for victim compensation, it is recommended that:

- (1) *Funding for victim services be substantially increased, possibly by increasing fines and allocating specific amounts to victim services, including The Criminal Injuries Compensation Board.*
- (2) *The upper limits of individual awards be increased, recognizing that award maxima do not reflect current living costs.*

An important priority of the group was the need for greater publicity about The Criminal Injuries Compensation Board, and the need for easier access to the Board. Due to the low volume in applications, we felt that it was impractical for regional services to be provided by the Criminal Injuries Compensation Board. Therefore, we felt that increased information could be provided by having a toll free number that police and victim services could give to victims. There was some discussion that there is a stigma attached to making applications to The Criminal Injuries Compensation Board and that this, under no circumstances, should exist. It was felt that greater publicity of the fact that sexual assault cases, etc. are held in camera, could help to overcome some of the stigma attached to those applications.

In addition, it may be appropriate to develop a protocol to inform victims about criminal injuries compensation, similar to that which was developed for sexual assault and child abuse cases, which could be used in hospitals and by the police. This is in keeping with the greater need for the police to publicize the availability of criminal injuries compensation and in recognition of the cards that are now being handed out, but

there is a clear feeling that more is necessary and specifically, that follow-up is necessary. A letter could be issued a month or two later to follow up on that initial card, recognizing that at the time of an incident, victims who are traumatized may not register everything that they are told and may not recall that they were informed about criminal injuries compensation.

The availability of information should not diminish. We felt that was very important for contact with victims, and that in all cases where it is appropriate and possible, personal contact should be maintained. There is a need for greater information about the type of criminal injuries awards available and the availability of emergency or interim awards. This mechanism is in place. However, we were alarmed and astonished by the fact that in the last fiscal year there were only six applications for emergency awards and felt that this could have been a result of a lack of publicity about their availability.

Recognizing that there is an alarmingly low number of applications to the C.I.C.B., compared to the number of reported crimes, it is recommended that:

(3) *Improved publicity about The Criminal Injuries Compensation Board and easier access to the board be provided. For example:*

- *provide a toll free information line;*
- *develop an information protocol concerning compensation and other services for all victims for use in hospitals and police stations;*
- *provide follow-up contact by police.*

Our last recommendation – but certainly not least, because we gave it the highest priority – was that the Ontario Criminal Injuries Compensation Board should re-examine their interpretation of Section 17(1) of the Act. This Section states that the Board will take into consideration all relevant facts in a case. There was some concern that research has identified that the Ontario interpretation of that Section may be placing an inappropriate emphasis on victim culpability in making decisions about granting awards, and most of us heard a very astonishing example of that this morning. Because we felt that victims should never be placed in a position of feeling that they are on trial in a Criminal Injuries Compensation Board hearing and therefore that the Board and the Province should give some consideration to reviewing the interpretation of that policy, it is recommended that:

(4) *The current interpretation by the Ontario Criminal Injuries Compensation Board of Section 17-1 of the Compensation for Victims*

*of Crime Act, 1971, especially in consideration of victim culpability, be re-examined.*

Thank you.

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#### GORD WALKER

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Thank you Bonnie. We appreciate that. I think what we'll do is to consider responding at the end, once all of the submissions are in.

I would like now to introduce to you The Honourable George Taylor and in a moment, we'll turn to Item #1, so we will be back on our agenda again with Mr. Taylor's arrival. Mr. Taylor, of course, is Solicitor General. I would like to introduce as well the balance of our table who form part of our continuous deliberations; the Ministers are the so-called voting members of the Committee, but we could not carry out our work without the help of these other people. On my far right is Don Crosbie, Q.C., who is the Deputy Minister, Ministry of Consumer and Commercial Relations. Next to Don is Lynn Bullard, who works in the Cabinet Office and serves as Secretary to this Cabinet Committee on Justice. Next to Lynn is Mr. Rod McLeod, Q.C., Deputy Solicitor General and next to Rod is Stephanie Wychowanec, Q.C., Deputy Provincial Secretary for Justice. At the far end is Mr. Bruce Young, Deputy Director of Crown Attorneys, from the Attorney General's Ministry, Crown Attorney's Division. The Attorney General is in Pakistan at the moment and could not be back in time for our meeting. Next to Bruce is Mr. George Podrebarac, Deputy Minister of Correctional Services.

Now, if we may revert to Item #1 on the Concurrent Working Groups' list. This is the Police and Crisis Services group and the rapporteur is Sgt. Gary Dealy, Community Programs Division, Metro Toronto Police.

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#### GARY DEALY

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Committee Members. The workshop of concern to me was "Police and Crisis Services" and it was an experience in itself to hear the victims tell us their stories with respect to their concerns in this area. I feel the consensus of our group was that the Federal/Provincial Task Force report has several excellent recommendations with respect to police services, and we referred to them constantly over the past two days.

The areas of concern that we looked at were training, development of guidelines, emergency response, the victim assistance programs themselves and funding. With respect to training, Chief Sawyer mentioned this morning that, in order to sensitize police officers to the needs of victims, there has to be a commitment from the top down to all police officers. We cannot expect police officers to pick up the cause if their

police chiefs and their deputies and the ministries themselves do not commit themselves. Therefore, it is recommended that:

- (5) *The Solicitor General for Ontario should request that all chiefs of police in Ontario make a commitment to victims of crime through a directive to their own forces.*

Another item was the development of explicit guidelines and policy procedures by police forces in the notification of death. Recommendation #61 of the Federal/Provincial Task Force specified that all police forces should develop guidelines. Standardized guidelines are taught at the Ontario Police College, Aylmer, O.P.P. at Brampton and Metro Police College in Toronto and the victims' groups feel that they should be involved in the development of these guidelines, in the development of training manuals and video films and should possibly go in and even talk to the officers themselves and share their experiences with the officers to inform them of their needs.

Therefore it is recommended that:

- (6) *Explicit guidelines and procedures be developed, with input from victims' groups, for use by all police forces in death notification and that they be standardized.*

We were concerned that hospital staff may not be aware of victims' needs. Counselling should be provided by on duty social workers or volunteers for immediate trauma counselling. In addition, we recommend that:

- (7) *Hospital staff should be sensitized to the emotional and mental needs of victims – not just the physical needs.*

During the past few years, both the federal and provincial governments have provided funding for research into the kinds of services needed by victims of crime. The findings have indicated there is a need for such services. There is a concern that funding is being made available for research and "pilot" projects. However, maintenance of services to victims' programs on a long term basis is lacking. It is therefore recommended that:

- (8) *The provincial government provide funding not only to start up, but also to maintain these necessary services.*

Another area of concern was the news media. The working group was well aware that one cannot control the press nor should one wish to do so. However, it was felt that the press could be more sensitive during the



initial period while still reporting the story. It is recommended, therefore, that:

- (9) *Guidelines be developed by appropriate authorities to ensure that the news media be more sensitive to victims and their particular needs during the time of crisis.*

These were our recommendations. Thank you.

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GORD WALKER

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Thank you very much, Gary. We'll return to those in due course for some comment. Now, Item #3, Victim Participation and Criminal Justice – the rapporteur is Supt. Phil Caney, Director, Policy Development and Coordination, Ministry of the Solicitor General, Ontario.

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PHIL CANEY

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Justice Committee Members. Ladies and gentlemen and colleagues. The last two days have certainly been an extremely moving experience for me, listening to the victims of crime sharing their experiences, and they have clearly indicated, during a very lively and spirited meeting, their recommendations to you, keeping in mind that it's democracy in action when you see vested interest groups using the correct and appropriate method of trying to modify the behaviour of politicians to make the appropriate amendments to the Law.

We'd like to just speak briefly here. The feeling of the group is that victims are very concerned that appropriate modifications to the criminal justice system be made to ensure that their rights are protected. This does not mean radical changes to the system that has stood us in reasonably good stead over the years, but it certainly indicates their concerns. They feel their rights are just as important as the rights of the accused. That was our theme, and we therefore recommend that:

- (10) *Victims should have at least the same position and status in the criminal justice system as the accused.*

We feel that there should be a Victim Advocate System funded provincially. It would be our view that if something was put in place to assist the victims and was funded and had status, then it would work. We hear about the status of the victim. What we're saying is, let the person not appear to be invisible or a non-event; he is important and there should be shared concern about his position in the criminal justice system. To

facilitate progress towards greater awareness of victims' rights, it is recommended that:

- (11) *A victim advocacy mechanism should be established, funded provincially, and with sufficient status to assist victims of crime at each stage of their particular case, and with due regard for victims' concerns for their personal safety.*

The key word throughout these two days from the victims has been "communication", or the lack of it. They wish to tap into the system throughout the entire process; the charge, bail, change of tenure, plea bargaining, preliminary hearing, trial, sentence, corrections and release. There is concern about safety and security of people who have been involved as victims in a criminal act and when we look at that area of bail, there is concern that they are not having an input to show the Crown and the police their concerns about their safety. Real or perceived, there is a fear factor.

There is also a concern in relation to corrections. People who have had to deal with murders and violent crimes and who know that the offenders are in custody, like to know where they are. They feel they have the right to know if they are transferred from various maximum, medium, or minimum security prisons. They want to know what type of program they are on, such as a temporary absence, or some other release to prepare for a return to the community. They feel as a victim they have the right to know when that person is being released. Again, there is that fear factor and I guess you would have to walk in the shoes of that victim to fully understand.

Next, the information flow. I'm going to repeat this, because it's very important to the victims and they've clearly indicated their position to us on this matter. *Right now*, the information flow with corrections has to be improved by the Crown and the police in relation to the victims of crime. They have the right, in their view, to obtain information that will ease their mind, before they read it in the newspaper or hear it on the radio.

Victims need timely and accurate information concerning their case, and we recommend that:

- (12) *Immediate improvements be made in the information flow and lines of communication with the Crown, the police and correctional programs.*

Victims must not be victimized by the system; that view has been clearly indicated. Many have been victimized twice – once by the criminal and once by the system. They felt that they were a non-event, they were invisible, they did not count. Clearly, there must be some type of remedial

action. So, we are talking about status, once again; that's the theme and the spirit is that they must have status equal to that of the accused.

Just to mention some of the issues that have surfaced over the last two days with regularity: the trauma of victimization, the loss of control, the violation, the loss of property sometimes and the lack of information. One of the points that was drawn to our attention quite clearly, was the lack of witness preparation. Victims enter the unknown when they enter the criminal justice system and are put under oath. They don't have that much knowledge about how to conduct themselves as witnesses. We're not speaking of coaching – we're talking about preparation for the step ahead, and about easing their minds so that they'll feel more comfortable and be able to recount the events with some dignity and poise. What resources are available? The victims have to know that. The rights and feelings of the victim should be considered at all stages of the process. I don't think that would be too difficult to accommodate. If they perceive themselves not to be a part of a process, it's going to be very difficult to get people to come forward.

Victims must not be victimized by the criminal justice system. In order to reduce this possibility, it is recommended that:

- (13) *Victims be provided with assistance in coping with the trauma of crime, and with emotional and financial loss.*
- (14) *Victims be provided with accurate information about available resources and with assistance in preparing to testify as witnesses.*
- (15) *Victims rights and feelings be considered with sensitivity at all stages of the justice process.*

There was one issue that came up in the area of restitution. While we feel that Bill C19 is a step forward and that this would be quite a modification to the criminal justice system, we recommend that:

- (16) *The state provide guarantees of restitution.*

A victim impact statement should be received at first opportunity from a victim of any offence and because of the length of time from the event of the crime to the trial, it has to be updated and fine-tuned, keeping in mind the physical trauma and the various things that could modify the behaviour of people as a result of a violent crime. It is recommended that:

- (17) *A victim impact statement be available after conviction in all cases and furthermore, that the statement be received by the police during initial investigations, retained and updated by the police as*

*necessary and presented orally or in writing, at the victims' discretion.*

One of the strategies used by defence counsel has been to subpoena murder victims' family members to keep them out of the court. That seems to fly in the face of reasonableness. That type of strategy should not be considered to be in the public interest, in our view, and we recommend that:

- (18) *The highly questionable tactic of defense counsel serving subpoenas on family members of murder victims, in order to keep them out of the court, should be disallowed.*

This was touched on by other groups, but we feel that there has to be some funding for further research on all aspects of victim needs. The historical experience is there and perhaps the information already gathered may help prevent other people from becoming victims.

- (19) *There must be additional funding for ongoing victim/witness programs and for research into victims' needs and experiences, to provide data for pragmatic crime prevention programs.*

In relation to the media, while we are not saying there should be censorship of trials because that, again, offends one of the rules of our society, we do feel that victims' concerns about personal information being reported (e.g. addresses, names of family members) should be a consideration of the judge. It is our recommendation that:

- (20) *Victims' concerns about having personal and confidential information reported in the media should be considered by the judge, in order to prevent the possibility of future harassment and/or exploitation.*

These recommendations are for the consideration of this panel. If we get the hobby horse in place, of course, continued funding will always be a concern. The spirit is that victims should have at least the same position in the system as the accused. Thank you.

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GORD WALKER

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Thank you very much, Phil. The next item is the report of the group dealing with Violence Prevention. In this case, Fran Pendrith is the rapporteur. Fran is the Coordinator of the Family Violence Program, Ministry of Community and Social Services, Ontario.

Thank you, Mr. Walker. Members of the Cabinet Committee and Ladies and Gentlemen. Our group looked at the task of developing recommendations in crime prevention. We had a very lively discussion with many diverse positions. We discussed everything from primary to tertiary prevention and we dealt with issues that had to be looked at now and for the prevention of future crime. We first developed a set of principles and then a set of recommendations. The recommendations were either by consensus or otherwise, and I will indicate to you which were by consensus as I go through them.

Our first general principle was that the criminal justice system and all its institutions must recognize and be sensitive to the value and dignity of all human beings; that sentencing and punishment of offenders must consider the harm done to the victims and their rights. There must be an opportunity for active participation by the victims and their families in all aspects of the criminal justice system. The criminal justice system must recognize the rights and needs of all victims, including both direct victims and secondary victims. The criminal justice system must be re-developed to ensure that there is an opportunity for all offenders to acknowledge and take responsibility for their actions in regard to the damage that has been done to the victims and their families. Communities should accept more responsibility for the injustices that are created in their districts, and there must be more direct and meaningful community involvement in government policy and in decision making.

Initiatives in this area must acknowledge the significant role to be played by all levels of government, the community, agencies and individual citizens and their groups. Also, there is a need to take action when young persons and young children are known to have serious anti-social and/or criminal behaviours. The final principle states that the scope and shape of crime and justice in our society depends to a very high degree on the quality of information and guidance given to children and youths. In the present situation, the breakdown and distortion of values and ethics among the young gravely threatens our society today and tomorrow. It is incumbent, therefore, upon the education system, the major tool of social policy and change in our society, to incorporate in an intelligent, engaging and creative way, programs whereby youth can learn the fundamentals of living, ethics, justice and self-protection to these ends. The Cabinet Committee on Justice is urged to set in motion, with full inter-ministerial cooperation, programs to make our elementary and secondary schools living experiments in responsibility, in high ethical standards and in community justice.

With that preamble, our recommendations are as follows:



### Consensus Recommendations for Immediate Implementation:

- (21) *There should be immediate public awareness, by the media and by other means, of violent offenders unlawfully at large.*
- (22) *Crown attorneys should routinely give correctional and parole officials a summary of the facts of the case.*
- (23) *Victims should be represented on the Minister of Correctional Services' Advisory Council on the Offender (M.A.C.T.O.).*
- (24) *Victim impact statements should be allowed by law.*
- (25) *There should be a review, with victim participation, of provincial and national parole boards and these should be redesigned, as necessary, to address agreed-upon concerns.*
- (26) *There should be a review of prosecution and judicial sentencing with victim participation and action should be taken on agreed-upon concerns.*
- (27) *Victim/witness assistance projects should be expanded to cover all parts of the province.*
- (28) *Private sector agencies familiar with the criminal justice system should be used as primary tools to educate the general public and funding should be established to support such public education efforts.*
- (29) *The public should be educated and informed by governments about the success and/or failure of all current institutional and community programs.*
- (30) *Parole procedures should be developed for young offenders, as well as early and continuing means to identify violence and the propensity for violence of young offenders; information on the young offender's potential for violence should be communicated to relevant justice officials.*
- (31) *Each element of the criminal justice system, (police, crowns, etc.) should have a built-in educational component for community outreach.*
- (32) *Improved legislation and/or other mechanisms should be put in place to deal with the problem of dangerous offenders.*

### Consensus Recommendations for Short to Medium Term Implementation:

- (33) *Community centres should be established to deal with the immediate and on-going problems, needs, fears and trauma of victims and their families.*
- (34) *Community violence prevention centres should be established and community resources mobilized to deal with the causes of violent behaviours and to target on inter-familial violence, child abuse and media violence.*
- (35) *All levels of government should work together with communities, to establish joint funding of the above noted centres, because all levels must accept that crime is a problem which overlaps all jurisdictions.*
- (36) *The Ministry of Education should develop a mandatory core curriculum, for primary and secondary schools to help students learn to respect the rights of others, how to be nurturing parents, and how to handle feelings of anger, hostility, rejection and other negative emotions, in a positive way. This should be carried out in consultation with parents and other community groups.*
- (37) *The Ministry of Colleges and Universities should promote actively and effectively the training of teachers and related professionals to handle human relations problems.*
- (38) *Workshops in central and northern Ontario should be held, with broad representation, to address victim-related concerns of those communities, before policy decisions are finalized.*
- (39) *Specific and concrete information on the "results" of the recommendations of this conference should be given to all Consultation delegates.*

### Non-Consensus Recommendations:

- *Correctional programs should be designed to sensitize offenders to victim's pain and damage, and to provide opportunities for offenders to deal with remorse and guilt.*
- *A form of flat sentencing for violent crimes should be implemented immediately.*

- There should be immediate withdrawal of the “automatic early release” program and the mandatory supervision program should be adjusted so that offenders still get supervision after release and/or probation orders are attached to violent offenders when released.
- A national referendum on capital punishment for convicted first degree murderers should be held, and/ or “life sentences should be for life”.
- A greater percentage of correctional services funds should go to supervising the released offender; a correspondingly lesser percentage should go to the implementation of incarceration.

This concludes the report from the Working Group on Violence Prevention.

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#### GORD WALKER

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Thank you very much, Fran. Now may we turn to that Special Submission section and ask that one or two of the people who have indicated that they would like to make a presentation to us come forward. Individuals should identify themselves as they come forward and may I ask that you try to be brief.

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#### C. DISCUSSION

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#### RUTH CORNISH

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The first person, Minister, is Mr. Don Sullivan.

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#### DON SULLIVAN

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Thank you very much for this Consultation, Mr. Minister. Although I was unable to attend all workshops, the general consensus of the many victims is that pain, suffering and mental anguish must be recognized as a viable injury. Every victim of crime, especially of a violent crime, goes through post-traumatic stress. We must come back into the 20th century and recognize that we do suffer permanent damage. It may not be obvious enough to a psychiatrist, but when your wife cannot work full-time for three or four years after your daughter has been murdered, it is a viable injury.

Another area of concern to many of us is that the CPIC Police Network

must regard and treat children as importantly as automobiles. We feel that when a parent reports a child missing, we must believe him. In border areas the FBI or state police must be informed immediately. Better to waste a few minutes of electronic "air time" than to lose a child. In this time of great mobility, this is very important to families. This was asked specifically by Concerned Advocates of Justice in Sarnia.

There is consensus from the four major victims' groups present in the following areas. We would like our Attorney General to meet with all the other Attorneys General of the provinces to apply pressure to have the National Parole Act amended to abolish the automatic earned release section. Earned release or no release. We ask you to apply pressure to the correctional services to segregate non-violent and violent offenders. We ask that parole releases be tightened and that communities' work-ups involve the community, not the Mayor, not the Alderman, not the police, but the community. As far as the Dangerous Offenders and Dangerous Sexual Offenders Sections are concerned, we would like to see more vigorous prosecution in these areas. Thank you.

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GORD WALKER

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Thank you, Don. Don, did I hear you correctly? In terms of the parole that you are talking about, you want earned release to be removed? No. Automatic release to be removed and replaced with earned release.

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RUTH CORNISH

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The next person, Minister, is Mrs. Ann Witka.

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ANN WITKA

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My name is Ann Witka. I work with P.R.I.D.E., to the best of my ability. What I have to say is very short. With respect to our working group I would like it to be understood that we have presented as few recommendations as possible, i.e. only those with the very highest priority. We specifically and with difficulty tried to refine and limit suggestions. We do not wish to see recommendations and suggestions regarded as compromised, but rather that each item be considered as important and as beneficial to society. Thank you.

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MAX SEIDEN

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I am not sure that I am in order. However, I think what I have to say is relevant to the discussions that are going on. In the mandate of the Task Force, it states that the Report excludes victims of corporate and white

collar crimes. I find that there are instances where the legal profession takes on a case of family violence or psychological violence, where a lawyer acts for both spouses.

It should be legislated, as it is in the Alberta Homestead Act, and as it is being considered in British Columbia and in New York State, that a lawyer should not act for both spouses. A lawyer should act for either the husband or the wife. This should be set down in law. In this regard too, I find that the Police Complaint Bureau has taken on a new view in the eyes of the public and of the police. I hope that the Legislature would consider a form of public complaint, similar to that of the Police of Metropolitan Toronto, to cover the legal profession, the medical profession, and accountants as well. I think this would represent a step in the right direction. I think the Attorney General has taken on this responsibility and has brought it to the public, so the public has more information and justice is not only heard, but in action. Thank you.

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GORD WALKER

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Thank you, Mr. Seiden. I appreciate your comments and contribution.

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RUTH CORNISH

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No other persons, Mr. Minister, signed the list I sent around. I think I considered everyone.

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GORD WALKER

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Since there are no further submissions, I would like to turn to the members of our Committee, and perhaps to some deputies, to address one or two of the issues raised. We might start with the Solicitor General who seemed to attract a certain amount of interest in the submissions.

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GEORGE TAYLOR

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Topic 1 was the one I was going to look at, Police and Crisis Services. One of the suggestions had to do with policy directives and guidelines. On the question of guidelines, one thinks of such things as notification of death, discussing teaching practices, and sensitizing hospital staff to trauma victims. At the Police College we now have more instruction concerning these issues. I know that every time I offer a suggestion for more information to police officers, it is usually on the social side of their training. There are professional people who prepare material on the use of fire arms, the use of equipment, and investigative tools. Policy guidelines are part of my job and naturally, I tend to hear more from



people in regard to the social issues. There is not a great deal of difficulty in preparing guidelines – it is partly a matter of setting up more time at the Police College.

As mentioned earlier, making video programming available to all the different police forces is probably the way of the future. The supervising officer can say, “I think in light of the way you handled that last scene, you should perhaps review video tape #2 on ‘How to Inform People of Notification of Death’ ”.

We have video taping studios at the Police College, at Brampton, at the OPP Academy. They are preparing material there. The Police College at Aylmer is producing video tapes on information and course contents. The Ontario Provincial Police are also considering the reviewing of video cassette units throughout their detachments.

Training Guidelines and Funding were major topics. Funding is an ever-present problem for governments. We have been seeking increased funding and have been given the go-ahead under the recent Speech from the Throne to look at crime prevention. I look at part of this conference as crime prevention. We will be seeking funding for crime prevention; the responsibility of the various Ministers here is to plead with the Treasurer. We must make your case, and our case, known to him to increase funding so that there can be continuation. There was a comment that the federal officials start programs and then we have to continue funding them. I guess that will always be the case. They start programs from time to time, just as we do, provincially. If there is a proven continuing need for these programs we have to secure the continuation funding. We have numerous excellent requests now and we are trying to seek continuation funding for those very worthwhile programs for victims.

The last topic on guidelines was ‘Sensitizing the media to the needs of victims’. If you have put that upon my shoulders, you have given me a colossal task of instruction. In the case of the media, we all know that whoever sends them out, says, “Get me this type of story”, and unless you break the victim down, have the victim sobbing and emotional, there is no story. I don’t know how to sensitize the media to be more considerate towards the trauma, the feelings, and the emotions of witnesses. I, like you, see it on TV, see the reports, the stories, and I don’t know how to correct it. That is something the media will have to correct in their own household. I don’t particularly like the present trend. I don’t think it is particularly good journalism. However, that is the route the media appears to take at this time. If you have any more specific suggestions I would welcome them.

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## GORD WALKER

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Thank you, George. I wonder if I can call on Nick Leluk, the Minister of Correctional Services, to add some comments in the areas that were raised.

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## NICK LELUK

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Thank you, Mr. Chairman. I think one area that was raised this afternoon was that there is a concern on the part of victims about the location of various criminals, where they are housed, what types of programs they may be on, whether they're on temporary absence or some other program in the community, and the release dates. I would like to say here that we would be prepared to examine the information flow possibilities. Some of the people who come into custody in our institutions, as you know, are there for a very short period of time. They're there on remand until such time as they're tried and sentenced and many of them are moved out into the federal system. It is this kind of movement, I understand, that victims are concerned about and certainly, we share those concerns. We're concerned about providing safe and secure institutions for people who are sent to our care by the courts and I feel that my staff are doing that to the best of their abilities. We would be prepared to look at that.

I believe also that there was a concern raised about the Minister's Advisory Committee on the Offender. We are pleased to receive input from the public, from outside the Ministry, with respect to Correctional Services and this Minister and Ministers prior to him have had this Advisory Committee in place, with a fairly good cross section of people from within the community. We currently have, I believe, eight members. We have among those members, a priest who has worked in the federal correctional system and has had experience in our own Provincial system. We have a police inspector, we have a counsellor who is with the Council on Drug Abuse, as a youth consultant on drug abuse and other types of psychological problems; we have a former educator and former employee of our Ministry; we have a school teacher, a housewife, a communicator with the C.B.C., a lawyer and a representative of one of our community agencies, the John Howard Society, so we have a fairly good cross section. We would be prepared to entertain appointing a person to this Advisory Council who is a victim of crime.

With respect to the separation of violent and non-violent criminals, I think Don Sullivan raised that point about separating the more serious types of offenders from the not so serious or violent types. We do have a classification system in place and when people are brought into the institutions, they are classified. We do not necessarily keep violent and serious offenders in with the general population. So, we are addressing

that matter, Mr. Sullivan. I believe those were the questions that were raised with respect to this Ministry.

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GORD WALKER

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I'd like now to open the floor to a few moments of questioning. If there are particular questions that might be raised by the people here to any one of the four Ministers or the five Ministries represented please go ahead and offer a comment.

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DELEGATE

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Do we make the Crown Attorneys' job more attractive by raising their wages?

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GEORGE TAYLOR

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Well, I can say the Attorney General has frequently made a plea to increase the salaries of the Attorney General's staff, so he's aware of that and he tries to balance the salaries they receive against what they may potentially receive as lawyers in the free enterprise, commercial world. He is quite successful in securing them increased funds, but I think that it would be a recognition if some of the Crown Attorneys had larger incomes. That is the profession and type of work they desire and I can say that very good and competent individuals remain in the service of the Attorney General.

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DELEGATE

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Mr. Walker, you and Mr. McMurtry have spoken out against the national parole system. On a federal level, I'd like to know if you're getting support or gauging support from other Attorneys General, or your colleagues from other provinces.

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GORD WALKER

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My sense is that all of the people across the province and indeed, it must be reflected, in every other province as well, are simply fed up with the "revolving door" syndrome. We heard about it earlier today, involving some of the Parole Board's decisions, where an individual can be released on a form of parole after serving only one-sixth of his sentence. Many people consider that this is far too short. There should be a longer period of sentence served. There has been some precedent established about minimum periods of incarceration before parole can occur. One could

make a very strong argument that certain classes of criminal convictions would warrant a fixed period of time in incarceration before parole could be considered. That, in fact, becomes victim justice. So, without having consulted every single Minister of Justice across Canada, I have the distinct feeling that the majority would share my view. I would think there would be a fair amount of support.

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DELEGATE

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I think there would be a fair amount of support for that too, from what has been said. The term “automatic earned time” is so incongruous. That is done by Statute. I don’t know how the public can accept such a Statute. They also cannot understand how the Ministers involved could accept it as being logical.

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NICK LELUK

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I might just add that with regard to the Provincial Parole Board, those who are in our system have to serve at least one-third of their time before they’re eligible to apply for parole. That doesn’t necessarily mean they will be given parole, but they have to serve at least one-third of their time before they can apply.

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GORD WALKER

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And in fact, you might mention the remission at the end is an earned remission; it’s not an automatic remission of one-third of the sentence. At the end of two-thirds of the sentence, a person is generally considered eligible for release in Ontario where they must earn that release and if they don’t earn it, they stay extra days.

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DELEGATE

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I would like to know why a sentence of, say 20 years ends up being five years. To be truly honest, why don’t they give the sentence and that’s it? If there’s a reason for a long sentence, why do you have to come down from it? What’s the real reason? It is confusing when the media say “He got life” – they should really be saying “He got 10 years”.

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GEORGE TAYLOR

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Some of those sentences have been changed but I would consider one of the experts on sentencing to be Rod McLeod who used to be with the Attorney General’s department and is now the Deputy Solicitor General.

He might try to explain some of the history of that, although it has changed over a period of time and been brought more to the public's concern.

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DELEGATE

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The sentence seems to get smaller. I thought it was one-third off, until a week ago when I heard something like one-sixth off a sentence.

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GORD WALKER

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Now, that is the Federal Parole Board.

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NICK LELUK

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Don't confuse the provincial and the federal system.

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GORD WALKER

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The Federal Parole Board allows a person, after serving one-sixth of the sentences, to be entitled to day parole, which could mean six weeks or three weeks at a time, but the idea is that the person would return. Let's turn to Mr. McLeod.

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ROD McLEOD

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There are others in the room, I'm sure, who could give an explanation; Dr. Podrebarac or Don Evans, and Bruce Young from the Attorney General's office. My understanding is that historically the federal government legislation was based on the belief that there ought to be something called "Statutory Remission". This meant that every person sentenced to a jail term was entitled to get one-third off at the end, subject to some form of supervision during that period in cases where that was necessary. Now that is my very limited understanding of the historic thinking. Secondly, the middle third of the sentences was eligible for what is referred to as "Earned Remission". This meant that through good behaviour in jail a person could earn the right to get out as early as one-third of the way through his sentence. Now, there are many different variations on that in the federal legislation. Today, with respect to first degree murder, an offender may be sentenced to a period of twenty-five years without parole. With respect to second degree murder, on recommendation of the jury and the order of the trial judge, an offender may be given a minimum period of anywhere between ten and twenty-five years to be determined at the time of sentencing.



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DELEGATE

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One more thing. If a person killed six people and is tried for one murder and serves time for one and not for six, the other victims don't count. Right?

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ROD McLEOD

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No, not necessarily. What would ordinarily happen, at least in this province – and Bruce may want to add to this – is if there is evidence to prove that a person killed six people, he would be charged with six counts of murder. He would be prosecuted and he might well receive six concurrent life sentences, and presumably, because you can't sentence him to more than his own life, some changes could be added to the law to provide for stiffer sentences.

It may well be that in some individual cases, the Crown and the police are of the view that they don't have the necessary evidence to proceed with all of the counts. Bruce, I don't know whether you want to add to that, but generally speaking, our policy would be to prosecute all murders that we're capable of proving.

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BRUCE YOUNG

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Yes, that's right, Rod, and you did state the law correctly. The way the law has been interpreted by the courts, one would get concurrent life sentences regardless of the number of murders, and it would take some sort of legislative change, I believe, to change that. Dr. Podrebarac could answer this better than I, but it could affect parole; the number of homicides involved in that particular case would likely lengthen it.

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DELEGATE

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Both you and Mr. McMurtry have expressed your concern with the parole system.

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GORD WALKER

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And Mr. Taylor expressed his concern today as well.

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DELEGATE

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I was deeply involved with the situation you cited yesterday concerning the individual who was released after serving one-sixth of his sentence. Do you intend to pursue this further than you have so far?

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## GORD WALKER

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Well, let us keep in mind first of all that it's the federal government which has this responsibility and particularly, the Solicitor General of Canada, the Honourable Robert Kaplan. Mr. McMurtry has registered very strong objection to what has transpired with this particular individual and as well, a general concern about the Parole Act and its application. Mr. Taylor and I have echoed that concern and I know it represents the view of Mr. Taylor and I'm sure, Dr. Elgie as well. We feel the Parole Act is not serving the purposes for which it was originally designed; that it has to be repaired. Mr. Kaplan has responded in the media. We have not yet seen his letter, but Mr. Kaplan has responded that we don't know what we're talking about; that we don't know how the Parole Board is constituted.

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## DELEGATE

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Do you intend, along with the other provinces, to apply pressure? Let's face it, you can do it better than I can.

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## GORD WALKER

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Yes, we do intend to continue pursuing this, recognizing however, that the legislative authority rests with the government in Ottawa and in particular, the Solicitor General, who can, in spite of his protestations to the contrary, ensure that Cabinet appoints certain people to the Parole Board under Section 3. The appointments can be made in such a way as to achieve the purposes of the government. Secondly, under Section 9 of the Parole Act, the Cabinet has the authority to pass regulations determining the length of time a person must serve before he is eligible for day parole or temporary absence.

So, we say, Mr. Kaplan, you have the authority, so long as your Cabinet will listen to you and assuming that they will, the Cabinet has the authority to change the regulations under Section 9 to appoint or "disappoint" people to the Board, and further, to amend the Act as required to achieve the broader purposes. We're concerned, we've expressed the concern. My suspicion is that the body politic of Canada is expressing its concern. I suspect there was a volcano that blew up when people started to realize what had transpired over the weekend with respect to the Kontiki Room Restaurant caper, so I think it is ironic; I gather even the charge card people sent the bill to the jail.

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### GEORGE TAYLOR

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I am certain that the Attorney General will raise this matter at the annual provincial Attorneys General meeting and will then meet with the federal counterparts. I'm sure that it will be a topic of discussion, and I'll make sure he puts it on the agenda. I don't think it will stop with an exchange of comments through the news media; the Attorney General will not be leaving it where it is presently. He's been out of the country and I am sure he will be back with his guns blazing.

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### GORD WALKER

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I would offer a guess that the Act or the Regulations will be changed, to the extent that I can offer a prognosis on the disease. I'd like to take one more question and then sum up. Dr. Waller at the back of the room has had his hand up.

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### IRVIN WALLER

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There are several points that I would just like to make as a final comment. We saw a large number of recommendations. I didn't count them all but there may have been 40 or 50 that we have proposed. We looked at the Federal-Provincial Task Force; there, some 79 recommendations were stated and I think it's important for us to think not just about individual changes in how police respond to victims, or how the courts produce standards for victims, or how the correctional system begins to recognize victims. I think you've got to begin with an overview of ways of trying to meet victims' needs. I think from the visible way this Consultation is organized, it is designed to focus on individual measures. However, in the plenary sessions, we've heard about programs in the U.S.A. and France where they have established a national board to try and focus on victim assistance or victim justice. I'd just like to throw in a personal recommendation that could perhaps be added to the list; that we also consider the possibility of establishing in Ontario and perhaps, nationally, a Victim Board that would have as part of its responsibility, immediate and long term implementation of some of the suggestions that have been raised here and at other meetings.

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## D. CONCLUDING REMARKS

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### GORD WALKER

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Thank you. I would like to take this moment to sum up, if I may; we're reaching a point where there should be a departure. I recognize there are a few questions which could be raised and I wonder if we might have them at the summation, or maybe we could speak about them afterwards.

May I begin by saying a special "Thank you" to all of you who have participated in the last two days. It's been impressive to hear the contributions made by victims – some for perhaps the first time in such a setting. To be able to hear a pin drop in the room during the discussions tells us something about the impact and the attentiveness of the people who were here. So, we want to say a very special thank you to those people who came here and told us so much. It's been extremely useful. And to those of you who have participated, who may not be victims, but are in some way related to front-line agencies or to victims' organizations, to the public or government, we express our appreciation as well.

We've had contributions made by way of the summary comments, following the Concurrent Working Groups, and the submissions have been very good. I haven't been able to write them all down, but it is our intention to publish what has been indicated here in terms of recommendations and they will form part of the recommendations that have come out of this meeting, along with the 79 recommendations from the Federal/Provincial Task Force. We'll produce a printed record of this meeting, so that we have an indication of your collective views in terms of the future action of our government.

In particular, we express our appreciation to the rapporteurs who have submitted their comments: Bonnie, with regard to Compensation and Financial Support; of course, one thing we always hear in government is the need for additional funding, but it does seem to make the system work and we recognize what you are saying. You cannot achieve victim justice on a shoestring; that we understand and appreciate.

Sgt. Gary Dealy presented the Police and Crisis Services submissions and talked about the policy directions to be handed down from head office. George, we'll let you deal with that in due course, and with the guidelines for police forces and for sensitizing hospital staff and news media. Maybe we should hold a conference on sensitizing the news media. We'll have the press people here sitting in and we'll make our submissions to you.

Recommendations from the group which looked at Victim Participation in the Criminal Justice System were presented by Superintendent Phil Caney. He prescribed that the victim should have as many rights as the

accused, and that we establish an advocate mechanism to improve communication. We recognize that need and those are useful recommendations.

From the group looking at Violence Prevention, Fran Pendrith has submitted a number of good proposals in terms of the principles enunciated and the points of consensus which were reached, and we will take to heart the comments that have been submitted. To those of you who made individual submissions – Don Sullivan, Ann Witka, Max Seiden, Irvin Waller and others who through questions have made submissions to us, we thank you for your contribution.

The Speech from the Throne that the Lieutenant Governor read to the Legislature on the 20th March, just past, indicated a very strong intention on the part of this government to enunciate the interests of victims, and to pursue “victim justice”. We have an excellent system of justice in Ontario and indeed, in Canada, a justice system which is heralded around the world. Certainly, this province’s accomplishments in the area of corrections are second to none. And certainly, with respect to policing and the many operations of the Ministry of the Solicitor General, including forensic science, Ontario is a world leader. We have a very good system, whether we’re talking about consumer protection, which is in fact a form of victim justice, or whether we are talking about our courts, our police, or corrections. We have areas that we can perfect. We intend to make improvements, particularly in the area of victim justice.

Thank you for coming. Please do fill out the evaluation forms before you leave. We would like to hear from you. There is a box at the back of the room and you can think of it as a ballot box.

In closing I would like to thank our Secretariat staff, because they, along with a number of people from other Ministries, have worked very hard to make the Consultation a success. Congratulations. You have done a great job. I thank all of you who have participated, especially those who have shared their experiences with us. The Cabinet Meeting is now adjourned.



## APPENDIX A

# Consultation Agenda

Provincial Consultation on Victims of Violent Crime

May 7-8, 1984

Sutton Place Hotel

Toronto

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MONDAY, MAY 7, 1984

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- 08:00 a.m.      Registration Desk Opens
- 09:30 a.m.      *Welcome and Opening Remarks (Salons A and B)*  
Miss Stephanie Wychowanec, Q.C.  
Deputy Provincial Secretary for Justice, Ontario  
  
*First Keynote Address: Victim Justice and Violence*  
The Honourable Gord Walker, Q.C.  
Provincial Secretary for Justice, Ontario
- 10:00 a.m.      *Panel: Victims' Views of Justice (I) (Salons A and B)*  
Miss Stephanie Wychowanec, Q.C. (Chairperson)  
Mr. Bob Sauve (Sarnia, Ontario)  
Mrs. Donna Edwards (St. Thomas, Ontario)  
Mrs. Helen Collum (Willowdale, Ontario)
- 10:30 a.m.      Coffee
- 10:45 a.m.      *Panel: Responses to Victim Concerns (Salons A and B)*  
Miss Stephanie Wychowanec, Q.C. (Chairperson)  
Mr. Chris Nuttall, Assistant Deputy Minister, Programs  
Branch, Ministry of the Solicitor General, Ottawa

Mr. Don Sullivan, Executive Director, Canadian Crime Victims Advocates  
Dr. Irvin Waller, Professor of Criminology, University of Ottawa

11:45 a.m. Discussion and Questions

12:30 p.m. Lunch ("Stop 33")

02:00 p.m. *Concurrent Working Groups: A. "Needs"*

1. *Police and Crisis Services (Salons B and C)*  
Chair: Mr. Rod McLeod, Q.C., Deputy Solicitor General, Ontario  
Mrs. Pat Sullivan (Ajax, Ontario)  
Constable David Geldert, Victim Services Unit, Edmonton Police Department  
Chief Bob McEwen, Vice-President, Ontario Association of Chiefs of Police, Sault Ste. Marie
2. Compensation and Financial Support (Plaza Suite)  
Chair: Miss Stephanie Wychowanec, Q.C.  
Mrs. Elsie Obert (Drumbo, Ontario)  
Professor Leroy Lamborn, Faculty of Law, Wayne State University, Detroit  
Mr. Allan Grossman, Chairman, Ontario Criminal Injuries Compensation Board
3. Victim Participation in Criminal Justice (Peel Suite)  
Chair: Mr. Michael Martin, Q.C., Regional Crown Attorney, London, Ontario  
Major David Nairn (Nepean, Ontario)  
Mr. John Feinblatt, Director, Court Services, New York Victim Services Agency  
Mr. Don Evans, Executive Director, Community Programs, Ministry of Correctional Services, Ontario
4. Violence Prevention (Queen's Park Suite)  
Chair: Mrs. Ruth Cornish, Senior Policy Coordinator, Provincial Secretariat for Justice, Ontario  
Ms. Lorraine Berzins, (Ottawa, Ontario)  
Dr. Elliot Barker, President, Canadian Association for the Prevention of Cruelty to Children  
Sgt. Jacqueline Hobbs, Community Programs Division, Metro Toronto Police

- 03:30 p.m. Coffee
- 04:00 p.m. *Report to Plenary Session on Discussion of Needs (Salons A and B)*
- 05:00 p.m. *A/V Presentations – optional (Peel Suite)*
- *From Victim to Victory*
  - *View from the Shadows*
  - *Crime: The Broken Community*
- 05:30 p.m. Cash Bar
- 06:30 p.m. Dinner (“Stop 33”)
- Second Keynote Address:*  
 Dr. Marlene Young  
 Executive Director  
 National Organization for Victim Assistance  
 Washington, D.C.

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TUESDAY, MAY 8, 1984

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- 09:00 a.m. *Panel: Victims' Views of Justice (II) (Salons A and B)*  
 Chair: Mr. Arthur Daniels, Assistant Deputy Minister,  
 Operations, Ministry of Community and Social Services, Ontario
- Mr. and Mrs. Norman Willet (Manotick, Ontario)  
 Mrs. Wendy Pickett (Kitchener, Ontario)
- 09:30 a.m. *Panel: Services for Victims (Salons A and B)*  
 Chair: Mr. Arthur Daniels
- Mr. Sterling O'Ran, Program Manager, California Victim/Witness Assistance Program  
 Mr. Terry Hunsley, Executive Director, Canadian Council on Social Development  
 Chief Brian Sawyer, Chairman, CACP Victims Committee, Calgary
- 10:30 a.m. Coffee
- 10:45 a.m. *Concurrent Working Groups: B. “Services”*

1. *Police and Crisis Services (Salons A and B)*  
Chair: Supt. Fern Savage, Director, Community Services Branch, O.P.P.  
  
Resource: Mr. Paul Sonnichsen, National Consultant (Crime Victims), Ministry of Solicitor General, Ottawa
2. *Compensation and Financial Support (Salon C)*  
Chair: Miss Stephanie Wychowanec, Q.C.  
  
Resource: Dr. Micheline Baril, Ecole de Criminologie, Universite de Montreal
3. *Victim Participation in Criminal Justice (Peel Suite)*  
Chair: Mr. Michael Martin, Q.C.  
  
Resource: Ms. Catherine Kane, Policy Advisor, Department of Justice, Ottawa
4. *Violence Prevention (Queen's Park Suite)*  
Chair: Mrs. Ruth Cornish  
  
Resource: Dr. Frank Porporino, Senior Research Officer, Research Division, Solicitor General, Canada

12:30 p.m. Lunch ("Stop 33")

*Third Keynote Address:*  
The Honourable George Taylor, Q.C.  
Solicitor General, Ontario

02:00 p.m. *Concurrent Working Groups: C. "Recommendations for Action"*

1. *Police and Crisis Services (Salons A and B)*  
Chair: Supt. Fern Savage  
  
Rapporteur: Sgt. Gary Dealy, Community Programs Division, Metro Toronto Police
2. *Compensation and Financial Support (Salon C)*  
Chair: Miss Stephanie Wychowanec, Q.C.  
  
Rapporteur: Ms. Bonnie Foster, Assistant Director, Central Region, Ministry of Correctional Services, Ontario
3. *Victim Participation in Criminal Justice (Peel Suite)*  
Chair: Mr. Michael Martin, Q.C.

Rapporteur: Supt. Phil Caney, Director, Policy Development and Coordination, Ministry of the Solicitor General, Ontario

4. *Violence Prevention (Queen's Park Suite)*

Chair: Mrs. Ruth Cornish

Rapporteur: Ms. Fran Pendrith, Coordinator, Family Violence Program, Ministry of Community and Social Services, Ontario

03:45 p.m. Coffee

04:00 p.m. *Presentation of Recommendations to the Ontario Cabinet Committee on Justice (CCJ) (Salons A and B)*

The Honourable Gord Walker, Q.C. (Chairman)

The Honourable R. Roy McMurtry, Q.C.

The Honourable George W. Taylor, Q.C.

The Honourable Robert G. Elgie, M.D.

The Honourable Nicholas G. Leluk

05:00 p.m. Close of Meeting





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18th Floor, 18 King St. E.  
Toronto, Ontario  
M5C 1C5

Dr. Marlene Young  
Executive Director  
National Organization for  
Victim Assistance  
1757 Park Road North West  
Washington, D.C. 20010  
U.S.A.

Mr. Said Zafar  
Partner  
Zafar & Gad Associates Inc.  
P.O. Box 2007, Station 'B'  
Scarborough, Ontario  
M1N 2E5





## APPENDIX C

# A Note on the Edmonton Police Department's Victim Services Unit (V.S.U.)

By DAVID GELDERT\*

Traditionally, the victims of crime appear to be the people forgotten by the Judicial system since the system focuses first on the crime itself and thereafter on the offender. More and more emphasis has been placed on the rehabilitation of the criminal who committed the act. While incarcerated, the criminal has access to legal aid, food, shelter, medical needs, counsellors, psychiatrists, and is ensured that his family is provided for while he is detained.

What about the victim? In the majority of all reported cases, the victims are left to fend for themselves. No one advises them or provides them with professional help to assist them to overcome the traumatic experience of being victimized.

In May of 1979, the City of Edmonton, in concert with the Edmonton Police Department, having acknowledged citizens' concerns for enhanced police services funded a project called "Response to Crime – A Strategy Approach". One of the programs that was implemented was the Victim Services Unit. The Unit focuses on improving and standardizing police services to victims, develops and provides programs and procedures which provide direct assistance to them.

The unit functions within the Community Services Section of the Edmonton Police Department and is manned by a Sergeant, two Constables, four support staff members and approximately eighty-five volunteers. The unit is staffed Monday through Friday from 7:00 a.m. to 11:00 p.m., Saturday and Sunday from 10:00 a.m. to 1:00 a.m.

Initially we addressed the difficulties experienced by victims attempting to liaise with police investigators to provide further information valuable

\* Constable Geldert is with the Victim Services Unit, Edmonton Police Department.

to an investigation, to enquire as to the status of the investigation or just to seek information helpful in understanding police and court procedures. A Victim Services Unit card was developed outlining services provided and the Unit's telephone numbers. Police investigators issue this card to the victim at the scene of a crime and record the occurrence file number on it. The Unit presently responds to over 2,500 telephone contacts per month.

A letter and V.S.U. brochures are mailed to Robbery, Homicide and Break and Enter victims providing case status, name of investigator and outlining services provided. After close liaison with court officials, property seized and often held as evidence for months, was released to the victim or agent following photographing of the victim/agent with the property. The polaroid photographs are then utilized as evidence in criminal proceedings.

It was evident that most victims experienced a common series of emotional reactions which we refer to as "the victimization syndrome". Aside from just being an information centre for the victim we decided to provide a more effective assistance to the victims by adopting a personal visit by police in the second phase of the program. Victim Services Unit staff would peruse all incoming reports, evaluate them, and seek out victims who obviously were faced with serious problems. The victims were then contacted and personal visits conducted. If Victim Services Unit staff could not be of any assistance, the victims were referred to community agencies who could provide them with the essential assistance. We found that the majority of the victims of crime were unaware of what avenues of assistance were open to them and that they were not knowledgeable of the procedures necessary to obtain assistance. Others were too traumatized or injured to even begin to cope with the dilemma.

The demand for our services rapidly escalated and resulted in the incorporation of a volunteer component. The primary objectives of this component, the Citizen's Participation and Support Project, were: To alleviate the immediate impact of a disruptive, stressful crime; to direct the victim to the appropriate agency in the community for continued assistance; to focus on the prevention of further victimization and provide encouragement in participating in the apprehension and prosecution process; to help to reduce the "service time" of police officers and to be of service to investigators by providing assistance to the victim during the crime investigation.

Through advertising in the local media we were initially able to acquire sixty volunteers (Victim Advocates). These trained volunteers donate five hours per week answering telephone queries, providing "face to face" contact at the victim's location and responding to requests for assistance from police officers during stages of the initial investigation.

It has been our experience, especially since the implementation of the volunteer component, that victims are very appreciative of any assistance

provided and are overwhelmed that someone actually cares about their well being. Agencies are eager to develop open lines of communication which assist in preventing duplication of services and prevent victims from "falling through the cracks" of the existing system.

The criminal justice system is under more public scrutiny than ever before. I firmly believe that programs such as the Citizens Participation and Support Project, which creates a positive interaction with citizens who have been victimized, will result not only in more effective prosecution of the offender but ultimately in a reduction in crime.





## APPENDIX D

# Some Ideas on the Future of Victim Compensation

By MICHELINE BARIL\*

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### 1. THE RIGHT TO REPARATION

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This right does not exist in Canada. The Quebec Charter of Human Rights recognizes a general right to redress which has not yet been applied to victims of crime.

#### 1.1 *Why Reparation?*

- Because it is a matter of elementary justice;
- Victims do not need or want charity; they just ask for their due;
- As long as that right is not proclaimed, victims will be subjected to the hazards of the economy, to politics, fads and whims, in this need to be made “whole again”;
- This should be an individual, basic right, not a social right.

#### 1.2 *What Rights?*

- In principle, victims should have a right to return to the financial, social, physical and emotional state they enjoyed prior to the victimization;
- This includes medical and psychological treatment, reimbursement of specific expenses due to the victimization, compensation for loss of revenue or financial support, compensation for diminished abilities to face life, cost of relocation, payments for pain and suffering.

\* Dr. Baril is an Assistant Professor of Criminology, University of Montreal.

### 1.3 *Who Should be Eligible?*

- This right should be given to everyone regardless of income, race, sex, etc. who is the direct victim of violence;
- This right should extend, in the case of certain crimes, to the family of the victim (a drug dealer gets killed leaving his innocent children in need, for instance);
- The whole concept of the victim's fault must be re-examined.

### 1.4 *How to Implement*

- In a provincial Bill of Rights; this seems the easiest and fastest way;
- Eventually in a Canadian and International Bill of Rights, and in the Criminal Code.

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## 2. RESPONSIBILITIES

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Who will take responsibility for reparation to the victim?

### 2.1 *The Offender*

The person responsible for the harm must assume the consequence of his acts. It is again a matter of justice. Their consequences should not be punishment per se but, before all, reparation of the harm inflicted. This position raises some constitutional issues that could be resolved.

### 2.2 *The State*

In most cases, the offender is not identified, not found, not solvent, or not willing to retribute. Victim compensation becomes the State's responsibility.

#### 2.2.1 *Why State Responsibility?*

- The State has assumed the duties and rights of prosecution, protection, justice, punishment. It falls to the State to ensure that the victim has his fair share;
- As long as Justice is a state monopoly, the victims are its clients, just as the offenders are.

#### 2.2.2 *What Should be Included?*

- Economic resources might prevent a State or Province, from granting full reparation to victims; material losses are usually excluded. What must be safeguarded are all the costs related to the “return to normal life” of the victim.
- A need exists for better planning of all the laws concerning people harmed by human causes, accidental or criminal. Why should a cashier who is held-up be considered differently from a citizen required to hand over his wallet?
- Should the State compensate for pain and suffering? By all means, if it can afford to do so. But is not the most important concern to provide for the full rehabilitation of the person harmed?

### 2.2.3 *Who is Involved?*

- Should the fact that I pay an insurance premium curb my right to reparation?
- My husband is involved in wrong-doings and is killed, does that mean that my children and I are also guilty and not eligible to compensation?

### 2.2.4 *How to Implement?*

- Victim compensation schemes should assume entirely the task of reparation and collect from offenders the amounts due when possible (criminal or civil judgement);
- Victim compensation systems should either provide their own rehabilitation facilities or be able to direct the victims to existing resources;
- Victim compensation plans should offer these facilities even before they reach a decision as to the eligibility of the applicant;
- All victim compensation systems (not just Ontario’s) must be made widely known, easy to reach, and much more “human”. Money is a matter of life or death to some victims; for most, money is only incidental to more important needs: to be protected, to get a fair deal, to be restored in their dignity as human beings, to return to a meaningful life. This could lead to some decentralization and training programs for all employees of Compensation Boards.

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## 3. FUNDING

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To insure the victims’ right to reparation will mean added expenditures.

### *3.1 How critical would those expenditures be?*

They would not be very painful. For instance, Quebec, the most generous province, plans to spend 1.7% of its 1984-85 Justice budget on victims. Doubling this proportion would have little impact on offenders, the police, the prosecutors, the judges, etc., but could have a tremendous impact on victims.

### *3.2 How to plan a Justice budget sensitive to victims' needs*

Above all, there is a need for a great deal of consultation. For instance, correctional officials, police and judicial agencies, victims and their advocates must all be part of the consultative process.

## APPENDIX E

# Victim Participation in the Criminal Justice System: Issues for Discussion

By CATHERINE KANE\*

In Canada, the Crown prosecutes those persons who have committed a criminal offence. Generally the only involvement of the victim is as a witness for the prosecution. This system can be traced back to feudal times. In the early days of English law, if a person or his property were injured, either that person or his family would seek revenge or compensation. In feudal times, the King began to put certain favoured subjects under his protection or his "peace". If the favoured subject or his property was injured the wrongdoer would be accountable to the King rather than to the victim. As time passed the "King's peace" was expanded to cover all his subjects and breaches of the King's peace came to be prosecuted in the name of the King. This system has endured for over 900 years and change is unlikely. The participation of the victim in the criminal justice system and its impact on our traditional system must be seriously considered.

The following issues should be examined;

1. Does the traditional system i.e. where the offender is prosecuted by the Crown and the victim is involved only as witness, if at all, fail to meet the needs of the victim?
2. Do all victims want to participate in the prosecution of an offender or will this add to their burden – requiring more time off work, lost wages etc.?
3. In what ways do victims wish to participate in the operation of the criminal justice system and at what stages? (e.g. apprehension of offender, investigation, determination of appropriate charge, bail hearing, trial, sentence, release from incarceration).

\* Ms Kane is Counsel, Policy Planning and Criminal Law Amendments, Department of Justice, Canada.



4. The right of the offender to a fair trial must not be compromised by victim rights. Will victim participation have an adverse effect on the offender and is this desired by the victim (e.g. harsher sentences)?
5. Should the participation of the victim be restricted to victims of particular crimes (e.g. crimes of violence, crimes against property)?
6. Should restitution from the offender be encouraged? Are victims prepared to face the problems associated with collecting restitution?
7. Should Victim Impact Statements (V.I.S.) be used in Canadian criminal courts? If so;
  - a) what information should the V.I.S. contain?
  - b) should the V.I.S. be sworn under oath?
  - c) should information contained in the V.I.S. be verified where possible? (e.g. receipts, hospital bills etc.)
  - d) should Victim Impact Statements be sought from all victims of particular offences? Which offences?
  - e) who should be responsible for gathering the information for the V.I.S.; police, crown, probation officers or victims?
  - f) how should the V.I.S. be presented to the judge; in the pre sentence report, by the crown, other ways?
8. Should victims be permitted to personally address the judge regarding the impact of the crime upon them? Should victims be permitted to state their opinion on the appropriate sentence?

The Minister of Justice introduced Bill C-19, The Criminal Law Reform Bill, in the House of Commons on February 7, 1984. Provisions are included in the Bill designed to assist victims of crime.

The Code provisions regarding restitution will be expanded and sentencing judges will be encouraged to order restitution as a sentence.

Restitution will be available in the following forms;

- return of property to its lawful owner
- payment of money up to an amount not exceeding the replacement value of property damaged or lost
- in cases of bodily injury, payment of an amount equal to all special damages and loss of income or support incurred as a result of bodily injury where the value thereof is readily ascertainable
- punitive damages up to:
  - \$2,000 for individuals convicted of summary conviction offences
  - \$25,000 for corporations convicted of summary conviction offences
  - \$10,000 for individuals convicted of indictable offences
  - an amount in the court's discretion where a corporation is convicted of an indictable offence

- restitution can be made in a manner agreed upon between the victim and offender (for example by performing unpaid work)

Bill C-19 provides that restitution will be available as a sentence for all offences and the court may order restitution on its own motion. Where the court is considering an order of restitution, there are provisions for notice to be given to the victim or other persons having an interest in the restitution. Bill C-19 also includes provisions to enforce the payment of restitution including attachment of the offender's wages or seizure of the offender's property. Jail terms could be imposed only for wilful default.

Another provision of interest to victims of crime concerns the contents of a presentence report. The Bill provides that the presentence report *shall* contain *inter alia*:

“the results of an interview with any victim of the offence including information concerning any harm done to, or loss suffered by, the victim, in cases where it is applicable and practicable to conduct such an interview”.

This provides a type of victim impact statement for the sentencing judge to consider.

The provisions of Bill C-19 guarantee a certain amount of victim participation without changing the general procedure or affecting the rights of the accused. Do these provisions meet the concerns of victim rights advocates and advocates for the full participation of the victim in the criminal justice system?



## APPENDIX F

# Violence Prevention: Observations on Dangerous Offenders

By LORRAINE BERZINS\*

I have been asked to set forth my views on the types of initiatives that might prevent violence in the future. I bring to this task a series of observations that I have had the opportunity to reflect upon over the years as a result of my personal experience as a victim in a hostage-taking incident, as well as my professional experience as a social worker and policy analyst in the field of Corrections. I have worked with prisoners myself. I have also spent the past 18 months poring over the files and trial transcripts of criminal offenders who have been legally designated dangerous, and talking to a number of experts – researchers, academics, clinicians, correctional workers – who have had extensive experience with these offenders or others like them.

I would first like to share with you what I learned from my own exposure to the dynamics of a violent situation, because it captures in a nutshell some basic principles that I have found to hold true by other standards and sources of learning as well:

- the inmate who held me hostage was very frightened, and that made him more dangerous to me;
- he felt that no one valued his life, and that also made him more dangerous to me;
- I couldn't leave it up to outside "experts" to solve the problem for me – there is no better security than one's own sensitivity and relationship skills;
- the key to the peaceful resolution of this potentially deadly situation was in the person-to-person contact and trust that was established.

\* Ms Berzins is a Criminal Justice Consultant and policy analyst who lives in Ottawa, Ontario.

Each one of us began to realize that the other person was experiencing a feeling that we could recognize, identify with and respond to with some compassion despite the continued need for utmost caution. (The inmate realized I was as frightened as his sister would be; I realized he was as frightened as I would be if a sharpshooter had a rifle trained on me; the police realized he was awkward, nervous and vulnerable instead of tough and callous as might be expected.)

Now I know that I was very fortunate in this particular case and I realize that there was an exceptional combination of factors and circumstances beyond anyone's control contributing to this and that such an outcome may seem unrealistic, undesirable and even highly offensive to those who have suffered from far more crushing tragedies and injustices. I can only tell you simply that this is what happened to me and there may be something to learn from it about human behaviour as there is with every situation, regardless of the outcome.

When we talk about "violent" or "dangerous" offenders we tend to think that they're a different breed of cat from the rest of us and that if only we can identify who they are, what caused them to become that way, what we can do to change them, and how we can prevent others from being contaminated by the same causes – we'll have the problem licked. I have learned that it is not as simple as that, not only because we are as yet unable to determine such clear-cut causes and identification criteria, but also because such an approach is based on an incomplete understanding of what violence is all about – it doesn't depend only on conditions present within the individual, but also on a multitude of outside factors, circumstances, permutations and combinations of stresses, actions and interactions. It becomes more realistic to talk about dangerous "situations" rather than dangerous people, and more useful to identify the particular factors that are more likely to precipitate dangerous behaviour on the part of a particular individual, rather than labelling any one individual as dangerous in all circumstances at all times.

When we are looking for means of prevention, then, there are two angles to consider. We would like to prevent the occurrence of whatever factors seem to cause certain individuals to be more prone to behaving violently under apparently commonplace conditions. But we must also consider how we can improve how we deal with people *as they are*, through a better understanding of the factors that are operating in the situation and the implications that such an understanding has for types of intervention that are likely to maintain a stable situation, or, in a crisis, likely to defuse rather than aggravate the dangerousness of the individual's reaction.

We need to demystify just what kind of human behaviour we're talking about when we say we want to prevent violence, we need to flesh out

our understanding of what it consists of – not as images in our minds, but in real-life situations happening to real-life people. The way in which the Dangerous Offender Legislation has been used to date in fact shows that some types of violence seem to be of more concern to us than others. We need to clarify what it is we most want to prevent in order to assess what type of intervention has some chance of affecting it.

The offenders who have been legally designated dangerous have most often been labelled by psychiatrists as “psychopaths”, “sociopaths” or “anti-social personalities”. They are largely considered untreatable, or unmotivated for treatment, or unlikely to respond to current treatment methods. The “anti-social personality disorder” is said to be evident by the age of 15 and shows itself up as a great deal of disturbance with interpersonal relationships in the family early on, frequent disruptions where the child is shifted from home to home. The school history is usually very badly disrupted by poor behaviour or poor learning ability. There is usually a terrible work history because of an impulsivity that makes it difficult to have steady, regular, dependable work habits. Another characteristic is the lack of ability to have any personal commitment in interpersonal relationships. It is considered to be a longstanding well rooted disorder of behaviour, a pattern of lifestyle developed from early childhood, a whole way of living and dealing with stress and situations that gradually becomes more and more obvious as all conflict is manifested outwardly, rather than kept inside in fantasies, thoughts or dreams. And it appears that we’re in a crisis of faith in terms of any confidence in our ability to prevent it or change it. We’re at a crossroads, and new ways of thinking and seeing are going to have to emerge if we are to find any fresh directions to explore.

It strikes me that this “disorder” is in fact an artificial construct, a “knot” that brings together a subtle complicity of many different forces that certain individuals are more vulnerable to. By focussing exclusively on those individuals as “abnormal personalities”, we may be tightening the knot, when what is needed is a process of understanding that helps us to gently unravel the many threads. Some of those threads may be quite obvious, some of them less so, like the aerosol spray cans that are affecting the outer layers of our atmosphere, or the subterranean tremors that can be linked to volcanic activity. We must try, like scientists in these other fields, to refine the precision of both our instruments and our interpretations: a simple seismographic blip is not necessarily an accurate predictor of volcanic eruption.

What I would like to share with you in the remaining time, and it can be more fully explored if you are interested, in tomorrow’s sessions, is a series of observations about dangerous offenders, gathered from my own work and that of others, that give “hints” or “clues” for new directions that could be pursued. And some general principles for the kinds of intervention that are most likely to help us make more headway.



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## SOME OBSERVATIONS ABOUT "DANGEROUS OFFENDERS"

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- don't want to be dangerous (loss of control, miserable lives, assault each other, Robins Study)
  - have developed some control mechanisms (how can we learn from this, reinforce this)
  - afraid, panicky, fear of being vulnerable, paranoia:
    - cool facade is massive defence
    - best defence is an offense
- Implications:* need time and space, don't violate space in a crisis.
- negative self-image, low self-esteem, high anxiety – paradox: how to increase positive image, decrease stress
  - hard to carry own anxiety and guilt: dump on others
  - poor language skills, thinking skills – "low motivation"; "unremorseful" – can we find non-verbal tools . . .
  - violence as a form of language in the absence of other skills
  - poor body image, poor contact with others, no sense of who they are in relation to others, not "bonded" to human community; touching a threat; "tender loving care" a threat, intimacy a threat
  - early pattern, fear of change, "tender loving care" can raise anxiety
  - poor eating habits, nutritional deficits
  - alcohol, drugs; can be disinhibiting, *or* obliterating urges: to stop may bring out more problems
  - often not aware of own violence, other's fear, too self-absorbed to perceive from other's standpoint
  - hard to face painful insights and awarenesses about self, especially with negative self-image
  - many seem to like prison, fear outside: why?
    - barriers separating from other people
    - chains holding in feelings
    - needing to be restrained by others
    - need not to trust
    - need not to be touched
    - panic when urges to open up are aroused
    - prison gives security of both proximity of people (vs. the panic of being alone in the world) as well as outside controls, barriers, social structures that guarantee that trust will *not* emerge, that

intimacy will not become too much to handle, that isolation will be maintained.

*Implication:* we need to know if such needs are subconsciously motivating some people to commit crimes; can they find a way of living with such needs that is less dangerous and less “costly”?

- proportion of sexual offenders designated dangerous; why does so much violence take on a sexual form? link between the severity of our reaction to sexual offenders vs. attitudes to the same behaviour in mass media pornography
- dynamics of violence in intimate relationships: (eg. Woody Allen: “I wouldn’t want to join any club that would have me.” In other words, intimate others are absorbed into low self-worth and self-destructive behaviour).

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## IMPLICATIONS

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*What we do* depending on our understanding of what is happening in the person can have important implications for aggravating or defusing the dangerousness of his or her reaction:

- a) some apparently *negative* things that we feel justified in doing (violating space, humiliating, devaluing his life) may in fact increase his fear, anxiety and need to assert himself;
- b) some apparently *positive* things (intimacy, “tender loving care”, removal of alcohol as a crutch), can in fact cause more problems than they solve – or solve one problem but cause or unveil another.

There are no universal or ready-made answers: we have to know the individual and what things mean in particular situations.

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## WHO/WHAT DO WE TRY TO CHANGE

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Basically the target of our intervention can be:

1. *the offender:* we have a lot yet to learn; it appears that human beings resort to violence when their deepest needs aren’t met and in some cases they may never be met; they may have to learn to live with a legacy of problems and anxieties, to shoulder a burden of guilt and remorse, to take responsibility for their “handicaps”, sexual oddities, anger, hostility, harmful urges without acting in ways that are destructive to others;
2. *the offender’s living environment:* we can change it completely, or simply manage and control it; there are some who may always

need a shelter, an institution, "safe custody", in prison or outside. The kind of restraint used and help offered during that time must be carefully selected in the light of what we are trying to accomplish.

3. *ourselves, i.e., the community and socio-cultural context*: we can examine our values, our cultural beliefs and our fears, the violent heroes of our entertainment media, and seek to change or re-interpret some assumptions, or learn to manage and control some of our fears in different ways. The fact is, we will never eradicate and prevent all possibility of violence in the future. *Our objective must be to learn to cope with the danger of violent behaviour.*

*An alarming issue* is beginning to emerge: what do we do in the face of the fact that we may be producing some people who are never "bonded" to our human community?

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#### PROMISING DIRECTIONS

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- phallometry, for a more accurate identification of the severely violent, sexually sadistic, sexual offender;
- cognitive approaches;
- left-right hemisphere research;
- neurological, biochemical, hormonal approaches;
- nutritional management; and
- stress management, anger control, aversive conditioning through fantasy control.

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#### STRATEGIC PRINCIPLES

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- intensive exploratory assessment procedures;
- phenomenological research studies;
- combined research-treatment units;
- systematic gathering, evaluation and dissemination of information; and
- feedback mechanisms to the networks responsible for academic research and for policy decisions affecting the "quality of life".

## APPENDIX G

# Victim Justice Readings and Resources

Public libraries, university and college libraries, municipal police departments, the Ontario Provincial Police and various community agencies will have suggestions for audio-visual and/or printed materials concerning the victims of crime. Here is a partial listing:

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### READINGS

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- Amernic, J. *Victims: The Orphans of Justice*, Bantam-Seal, Toronto, 1984.
- Amernic, J. "Villain Takes All". In *Homemaker's Magazine*, April, 1984.
- Bard, M. and Sangrey, D. *The Crime Victim's Book*, Basic Books, New York, 1979.
- Barkas, J.L. *Victims*. Peel Press, Bristol, 1979.
- Canadian Federal-Provincial Task Force on Justice for Victims of Crime, *Report*, Supply and Services Canada, Ottawa, 1983.
- Canadian Urban Victimization Survey: Victims of Crime* (Bulletin #1), Solicitor General Canada, Ottawa, 1983.
- Criminal Injuries Compensation 1983*, Statistics Canada, Department of Justice, Ottawa, 1984.
- Figgie International Inc. *The Figgie Report on Fear of Crime* (Part III) Research and Forecasts, New York, 1982.
- First World Congress of Victimology, Proceedings of: in *Victimology*, Vol. 5 Nos. 2-4, 1980.
- Galaway, B. and Hudson, J. (eds.) *Perspectives on Crime Victims* C.V. Mosby, Toronto, 1981.
- Hudson, J. and Galaway, B. (eds.) *Victims, Offenders and Alternative Sanctions*, Lexington Books, Toronto, 1980.
- Macdougall, Dr. V. "The New Victim-litigants". In *Ontario Lawyers Weekly*, October 7, 1983.
- Meiners, R.E. *Victim Compensation*, Lexington Books, Toronto, 1978.
- Miers, D. *Responses to Victimization*, Professional Books, Abingdon, Oxon, 1978.

- National Organization for Victim Assistance, "Families and Friends: Victims in Crisis". In *Newsletter* 8 (4), April, 1984.
- National Workshop on Services to Crime Victim's *Report of the Proceedings*, Solicitor General Canada, 1980.
- Norquay, G. and Weiler, R. *Services to Victims and Witnesses of Crime in Canada*, Solicitor General Canada, Ottawa, 1981.
- President's Task Force on Victims of Crime, *Final Report*, Washington, 1982.
- Rights and Services for Victims of Crime*, Canadian Council on Social Development, Ottawa, 1981.
- Schneider, H.J. (ed) *The Victim in International Perspective*. Walter de Gruyter, New York, 1982.
- Solicitor General Canada. "Connecting the Victim: Edmonton Police Take the Initiative". In *liaison* 8 (4), April, 1983.
- The Christian as Victim*, Mennonite Central Committee, 50 Kent Ave., Kitchener N2G 3R1.
- The Church Council on Justice and Corrections, "Crime Victims and the Churches". In *Update*, Winter, 1983.
- Victims Rights and Services: A Legislative Directory*. NOVA, Washington, D.C., 1984.
- Waller, I. "Declaration on the Protection and Assistance of Victims of Crime". In *Canada's Mental Health*, 32 (1), March, 1984.
- Weiler, R. and Desgagné, J.-G., *Victims and Witnesses of Crime in Canada*. Department of Justice Canada, 1984.

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#### FILM AND AUDIO-VISUAL

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- Crime the Broken Community* (Slide and tape)  
 Mennonite Central Committee  
 50 Kent Avenue  
 Kitchener, Ontario  
 N2G 3R1
- From Victim to Victory* (3/4 inch video-cassette)  
 Church Council on Justice and Corrections  
 151 Slater Street  
 Suite 305  
 Ottawa, Ontario  
 K1P 5H3
- Victims: A View from the Shadows* (16 mm film)  
 National Film Board  
 150 Kent Street  
 Ottawa, Ontario  
 K1A 0M9

# APPENDIX H

## Victim Justice Organizations in Ontario

Further information on crime victims' needs, rights and services is available from:

### *Federal Government*

National Clearinghouse on Family Violence  
Health and Welfare Canada  
Ottawa, Ontario  
K1A 1B5  
(613) 995-1050

National Consultant on Crime Victims  
Department of the Solicitor General  
Ottawa, Ontario  
K1A 0P8  
(613) 995-4811

### *Provincial Government*

Child Abuse Centre  
Ministry of Community and Social Services  
21st Floor  
700 Bay Street  
Toronto, Ontario  
M7A 1E9  
(416) 965-1900

Drinking/Driving Countermeasures Office  
Ministry of the Attorney General  
10 King Street East  
Toronto, Ontario  
M5C 1C3  
(416) 965-7145



Ministry of Correctional Services  
2001 Eglinton Avenue East  
Scarborough, Ontario  
M1L 4P1  
(416) 750-3421

Ontario Provincial Police  
90 Harbour Street  
Toronto, Ontario  
M7A 2S1  
(416) 965-4474

Provincial Coordinator, Family Violence Initiatives  
Ontario Women's Directorate  
4th Floor, Mowat Block  
900 Bay Street  
Toronto, Ontario  
M7A 1C2  
(416) 965-7805

Provincial Secretariat for Justice  
Room 1355  
Whitney Block  
Queen's Park  
Toronto, Ontario  
M7A 1A2  
(416) 965-2821

### *Community Organizations*

Against Drunk Driving  
76 Tanager Square  
Brampton, Ontario  
L6Z 1X2  
(416) 846-5252

Canadian Crime Victims Advocates  
P.O. Box 86  
Ajax, Ontario  
L1S 3C2  
(416) 683-2639

Canadian Society for the Prevention of Cruelty to Children  
Box 700  
510 Bay Street  
Midland, Ontario  
L4R 4P4  
(705) 526-5647

Child Find  
4166 Fourth Line  
Oakville, Ontario  
L6L 5B4  
(416) 845-4004

Church Council on Justice and Corrections  
151 Slater Street  
Suite 305  
Ottawa, Ontario  
K1P 5H3  
(613) 563-1688

Citizens Concerned with Crime Against Children  
London Chapter  
840 Dufferin Avenue  
London, Ontario  
N5W 3K1  
(519) 672-0975

Community Justice Initiatives  
298 Frederick Street  
Kitchener, Ontario  
N2H 2N5  
(519) 744-6549

Concerned Advocates of Justice  
#510-1255 Sandy Lane  
Sarnia, Ontario  
N7V 4G7  
(519) 336-5832

Ontario Association of Interval and Transition Houses  
29 Dalton Road  
Toronto, Ontario  
M5R 2Y8  
(416) 925-1052

Ontario Coalition of Rape Crisis Centres  
P.O. Box 1929  
Peterborough, Ontario  
K9J 7X7  
(705) 748-9982

People to Reduce Impaired Driving Everywhere  
19 Ovida Avenue  
Islington, Ontario  
M9B 1E2  
(416) 596-5928

Victims of Violence Inc.  
(Victims Rights Advocates)  
P.O. Box 393  
Bolton, Ontario  
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(416) 880-4587







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